HOUSE BILL No. 2089

By Committee on Insurance

1-26

AN ACT relating to insurance; concerning life insurance; valuation of policies; reserves; amending K.S.A. 2008 Supp. 40-409 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2008 Supp. 40-409 is hereby amended to read as follows: 40-409. (a) Every life insurance company transacting business in this state shall annually file, on or before March 1 of each year, with the commissioner of insurance a certified valuation of its policies in force as of December 31 of the preceding year, and it shall be the duty of the commissioner of insurance to annually make or cause to be made net valuations of all the outstanding policies and additions thereto of every life insurance company transacting business in this state, except that in the case of an alien company such valuation shall be limited to its insurance transactions in the United States. In making the valuations of life insurance companies organized under the laws of this state, the valuation shall include unpaid dividends, and all other policy obligations. Whenever the laws of any other state of the United States shall authorize the valuation of life insurance policies by some designated state officer according to the same standard as herein provided, or some other standard which will require a reserve not less than the standard herein provided, the valuation made according to the standard by such officer of the policies and other obligations of any life insurance company not organized under the laws of this state, and certified by such officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the commissioner of insurance. It shall be the duty of the commissioner of insurance, whenever requested so to do by any life insurance company organized under the laws of this state, to make annual valuations of all the outstanding policies and additions thereto of every such company and deliver to such company certificates of such valuation, specifying the amount of the company's reserve on policies thus valued. And for the performance of the duties prescribed by this section the commissioner of insurance shall be authorized to employ an actuary, whose compensation shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy obligations are valued, upon a certificate by the commissioner of insurance showing the compensation due therefor.

Any such company which at any time shall have adopted any standards of valuation producing greater aggregate reserves than those calculated according to the minimum standards hereinafter provided may, with the approval of the commissioner of insurance, adopt any lower standard of valuation, but*, except as provided in subsection (g),* not lower than the minimum herein provided.

(b) This subsection shall become operative for the year ending December 31, 1995, and each subsequent calendar year.

(1) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner shall adopt an administrative regulation defining the specific application, scope and content of this opinion.

(2) Except as otherwise provided by law or rules and regulations of the commissioner, every life insurance company shall also annually include in the opinion required by subsection (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, making adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) The commissioner may provide for a transition period for establishing any higher reserves which the qualified actuary deems necessary in order to render the opinion required by this section.

(4) Each opinion required by subsection (2) shall comply with the following provisions:

(A) A memorandum, in form and substance acceptable to or prescribed by the commissioner shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum within a period specified or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the prescribed standards or is otherwise unacceptable to the commissioner, the commissioner is authorized to employ an actuary whose compensation and expenses shall be paid by the company whose policies, additions, unpaid dividends or other outstanding policy or contractual obligations are valued upon a certificate by the commissioner showing the compensation and expenses due therefor.

(5) Every opinion of the actuary shall comply with the following provisions:

(A) The opinion shall be submitted with the annual statement required by K.S.A. 40-225 and amendments thereto reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(B) The opinion shall apply to all business in force including individual and group health insurance plans.

(C) The opinion shall be based on standards adopted from time to time by the actuarial standards board of the American academy of actuaries and on such additional standards as the commissioner prescribes.

(D) In the case of an opinion required to be submitted by an insurance company not domiciled in this state, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(E) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries.

(F) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion required by this act.

(G) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules and regulations adopted pursuant to this section. Notwithstanding the provisions of this subpart (G), the memorandum or other material may be released by the commissioner: (i) With the written consent of the company, or (ii) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(c) This subsection shall apply to only those policies and contracts issued prior to the operative date of K.S.A. 40-428, and amendments thereto, (the standard nonforfeiture law), except as provided in subsection (d) of this section.

For the purpose of such valuations and for making special examinations of the condition of life insurance companies, as provided by the laws of this state, and for valuing all outstanding policies of every life insurance company, the method and basis of valuation shall be the same as prescribed by the insurance code of this state in the valuation of such contracts before June 1, 1927. The legal minimum standard for the valuation of life insurance contracts issued on or after June 1, 1927, shall be the one-year preliminary-term method of valuation, except as hereinafter modified, on the basis of the American experience table of mortality with interest at 4% per annum. If the premium charged for term insurance under limited-payment life preliminary-term policy providing for the payment of all premiums thereon in less than 20 years from the date of policy, or under an endowment preliminary-term policy, exceeds that charged for life insurance under twenty-payment life preliminary-term policy of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty-payment life preliminary-term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period, equal to the difference between the value at the end of such period of such a twenty-payment life preliminary-term policy and the full net level premium reserve at such time of such a limited-payment life or endowment policy. The premium-payment period is the period during which premiums are concurrently payable, under such twenty-payment life preliminary-term policy and such limited-payment life or endowment policy. Policies issued on the preliminary-term method shall contain a clause specifying that the reserve thereof shall be computed in accordance with the modified preliminary-term method of valuation provided therein. Except as otherwise provided for group annuity and pure endowment contracts in paragraphs (1-a) and (1-b) of subsection (d) of this section, the legal minimum standard for the valuation of annuities shall be McClintock's "table of mortality among annuitants," with interest at 4% per annum, but annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the company. The commissioner of insurance may, in the commissioner's discretion, vary the above standard of interest and mortality in cases of companies organized under the laws of a foreign country and in particular cases of invalid lives or other extra hazards.

Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(d) *Standard valuation law.* This subsection shall apply to only those policies and contracts issued on or after the operative date of K.S.A. 40-428, and amendments thereto, (the standard nonforfeiture law), except as otherwise provided in paragraphs (1-a) and (1-b) of this subsection for group annuity and pure endowment contracts issued prior to such operative date, and except as provided in subsection (e) of this section.

(1) Except as otherwise provided in paragraphs (1-a) and (1-b) of this subsection *or as provided in subsection (g)*, the minimum standard for the valuation of all such policies and contracts shall be the commissioners' reserve valuation methods defined in paragraphs (2), (2-a) and (5) of this subsection, 3½% interest or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4% interest for such policies issued prior to July 1, 1978, 5½% interest for single premium life insurance policies and 4½% interest for all other such policies issued on or after July 1, 1978, and the following specified tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioners' 1941 standard ordinary mortality table for such policies issued prior to the operative date of K.S.A. 40-428 (d-1), and amendments thereto, the commissioners' 1958 standard ordinary mortality table and the commissioners' 1958 extended term insurance table, as applicable, for such policies issued on or after the operative date of K.S.A. 40-428 (d-1), and amendments thereto, and prior to the operative date of K.S.A. 40-428 (d-3), and amendments thereto, provided that for any category of such policies issued on female risks, the modified net premiums and present values, referred to in subsection (d)(2) of this section, may be calculated, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of K.S.A. 40-428 (d-3), and amendments thereto: (i) The commissioners' 1980 standard ordinary mortality table; or (ii) at the election of the company for any one or more specified plans of life insurance, the commissioners' 1980 standard ordinary mortality table with ten-year select mortality factors; or (iii) any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative date of K.S.A. 40-428 (d-2), and amendments thereto, and for such policies issued on or after such operative date the commissioners' 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, and excluding annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts—the 1937 standard annuity mortality table, or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

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

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1961, either the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1961, either the 1959 accidental death benefits table, any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies, or, at the option of the company, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis, annuities involving life contingencies provided or available under optional modes of settlement in life insurance policies or annuity contracts and other special benefits—such tables as may be approved by the commissioner of insurance.

(viii) For all credit life insurance having initial terms of 10 years or less, excluding any disability and accidental death benefits in such policies, the 1980 commissioners' extended term mortality table or any later version as established in rules and regulations adopted by the commissioner of insurance.

(1-a) Except as provided in paragraph (1-b) *or as provided in subsection (g)*, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph (1-a), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners' reserve valuation methods defined in paragraphs (2) and (2-a) and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

(ii) For individual single premium immediate annuity contracts issued on or after July 1, 1978, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 7½% interest.

(iii) For individual annuity and pure endowment contracts issued on or after July 1, 1978, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table, or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 5½% interest for single premium deferred annuity and pure endowment contracts and 4½% interest for all other such individual annuity and pure endowment contracts.

(iv) For all annuities and pure endowments purchased prior to July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any modification of this table approved by the commissioner of insurance, and 6% interest.

(v) For all annuities and pure endowments purchased on or after July 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7½% interest.

After July 1, 1973, any company may file with the commissioner of insurance a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such company. A company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1979.

(1-b) (A) *Except as provided in subsection (g), the* applicability of this paragraph *is as follows*:

(1) The interest rates used in determining the minimum standard for the valuation of:

(a) All life insurance policies issued in a particular calendar year, on or after the operative date of K.S.A. 40-428(d-3), and amendments thereto;

(b) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1983, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this paragraph

(1-b).

(B) Calendar year statutory valuation interest rates:

(1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer ¼%:

(a) For life insurance,

$$I\ .03 + W\ (R1 - .03) + W/2\ (R2 - .09);$$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I\ .03 + W\ (R - .03)$$

where R1 is the lesser of R and .09,

R2 is the greater of R and .09,

R is the reference interest rate defined in this paragraph and W is the weighting factor defined in this paragraph.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (b) above, the formula for life insurance stated in (a) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (b) above shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (b) above shall apply.

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (b) above shall apply.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than ½%, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when K.S.A. 40-428(d-3), and amendments thereto, becomes operative.

(C) Weighting factors:

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(a) Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (b) above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less	.80	.60	.50
More than five, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii)

	Plan Type		
	A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by	.15	.25	.05

(iii)

	Plan Type		
	A	B	C
For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not			

guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan type A: At any time policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this paragraph (1-b), an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(D) Reference interest rate:

(1) The reference interest rate referred to in paragraph (B) of this paragraph (1-b) shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (b) above, with guaranteed duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (b) above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's investors service, inc.

(E) Alternative method for determining reference interest rates:

(1) In the event that Moody's corporate bond yield average—monthly average corporates is no longer published by Moody's investors service, inc., or in the event that the national association of insurance commissioners determines that Moody's corporate bond yield average—monthly average corporates as published by Moody's investors service, inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by regulation promulgated by the commissioner, may be substituted.

(2) *Commissioners' reserve valuation method.* Except as otherwise provided in paragraphs (2-a) and (5) of this subsection *or as provided in subsection (g)*, reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor.

The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

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

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

Except for any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in paragraph (5) *or in subsection (g)*, be the greater of the reserve as of such policy anniversary calculated as described in this paragraph and the reserve as of such policy anniversary calculated as described in this paragraph, but with: (i) The value defined in subparagraph (A) of this paragraph being reduced by 15% of the amount of such excess first-year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraphs (1) and (1-b) shall be used.

Reserves according to the commissioners' reserve valuation method for: (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this paragraph (2).

Reserves according to the commissioners' reserve valuation method for universal life contracts issued after December 31, 2006 providing for death benefits that are guaranteed to remain in effect if specified conditions, as defined in the universal life insurance contract are met by the contract owner, shall calculate the value of the guarantee by a method consistent with the principles of this paragraph (2). The use of anticipated lapse rates in such calculations shall not exceed 2% per annum.

(2-a) This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, as now or hereafter amended.

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

(3) *Except as provided in subsection (g),* in no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in paragraphs (2), (2-a), (5) and (6) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(3-a) *Except as provided in subsection (g),* in no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary rendering the opinion required by subsection (b).

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

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

for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraphs (1) and (1-b).

Except for any life insurance policy issued on or after January 1, 1988, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph (5) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (2), ignoring the third paragraph of paragraph (2). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraph (2), including the third paragraph of paragraph (2), and the minimum reserve calculated in accordance with this paragraph (5).

(6) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in paragraphs (2), (2-a) and (5), the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) be computed by a method which is consistent with the principles of this standard valuation law, as determined by regulations promulgated by the commissioner.

(e) Any company organized under the laws of this state, which shall desire to do business in any other states wherein it is not permitted to issue or deliver policies valued as provided in subsection (d) of this section, may value its policies issued and delivered in such other states as provided in subsection (c) of this section.

(f) The commissioner shall adopt rules and regulations establishing the minimum standards applicable to the valuation of accident and sickness insurance and may adopt other rules and regulations necessary to administer the provisions of this act.

(g) Notwithstanding the provisions of this section, the commissioner

may make modifications to the reserves otherwise required by this section as necessary to produce a reasonable result.

Sec. 2. K.S.A. 2008 Supp. 40-409 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.