CHAPTER 121

Original Senate File No. 112A

STANDARD VALUATION AND NONFORFEITURE

AN ACT to create W.S. 26-16-133; and to amend W.S. 26-6-111(d), (e)(i) and (ii) introductory paragraph and (G), (f)(i), (ii) introductory paragraph and (A), (B), (E) and (F), (iii)(A) and (B) and by creating a new paragraph (iv), amending and renumbering (iv) as (v) and (v) as (vi) and by creating a new paragraph (vii) and (g), 26-16-127(a), (b) introductory paragraph and (i) and (v), (d)(i)(A) and by creating new paragraphs (ii) and (iii) and amending and renumbering (ii) as (iv), (f)(i) introductory paragraph, (j) and by creating new subsections (k) and (m), amending and renumbering (k) as (n), (m) as (o) and (n) as (p) and 26-16-130(e) relating to life insurance and annuity contracts; increasing the maximum interest rate for determining reserves and nonforfeiture benefits; increasing the maximum valuation interest rate; providing exceptions to general insurance law in the separate accounts provisions; providing standard nonforfeiture law for individual deferred annuities; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-16-133 is created to read:

26-16-133. Standard nonforfeiture law for individual deferred annuities.

(a) This section shall be known as the "Standard Nonforfeiture Law For Individual Deferred Annuities".

(b) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, an employee organization, or both, other than a plan providing individual retirement accounts or annuities under Section 408 of the Internal Revenue Code, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section no contract of annuity, except as stated in subsection (b), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(i) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (e), (f), (g) and (h) of this section and in W.S. 26-16-127(j)(i);

(ii) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f) and (h) of this section and in W.S. 26-16-127(j)(i). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract;

(iii) A statement of the mortality table and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(iv) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract;

(v) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided;

(vi) Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g) and (h) of this section and in W.S. 26-16-127(j)(i) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section:

(i) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations paid prior to such time decreased by the sum of: (A) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum and (B) The amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by an existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars ($30.00) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87 ½%) of the net considerations for the second and later contract years. Notwithstanding the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%);

(ii) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

(A) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22 ½%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(B) The annual contract charge shall be the lesser of: (1) thirty dollars ($30.00) or (2) ten percent (10%) of the gross annual consideration;

(iii) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75.00).

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, cash surrender benefits available prior to maturity shall not be less than the present value as of date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g) of this section in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(j) (i) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(ii) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (e), (f), (g) and (h) of this section, and of W.S. 26-16-127(j)(i), additional benefits payable (A) in the event of total and permanent disability, (B) as reversionary annuity or deferred reversionary annuity benefits, or (C) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this subsection. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(k) After the effective date of this section, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this subsection for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the second anniversary of the effective date of this section.

Section 2. W.S. 26-6-111(d), (e)(i) and (ii) introductory paragraph and (G), (f)(i), (ii) introductory paragraph and (A), (B), (E) and (F), (iii)(A) and (B) and by creating a new paragraph (iv), amending and renumbering (iv) as (v) and (v) as (vi) and by creating a new paragraph (vii) and (g), 26-16-127(a), (b) introductory paragraph and (i) and (v), (d)(i)(A) and by creating new paragraphs (ii) and (iii) and amending and renumbering (ii) as (iv), (f)(i) introductory paragraph, (j) and by creating new subsections (k) and (m), amending and renumbering (k) as (n), (m) as (o) and (n) as (p) and 26-16-130(e) are amended to read:

26-6-111. Standard Valuation Law.

(d) If in any contract year the gross premium charged by any life insurer 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 for the 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 the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium with 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 are the standards stated in paragraphs (f)(ii) and (g)(ii) of this section.

(e) (i) This subsection applies to only those policies and contracts issued prior to the operative date of W.S. 26-16-127 (standard nonforfeiture law).

(ii) Except as provided in subsection (g) of this section for group annuity and pure endowment contracts, the minimum standard for the valuation of all such policies and contracts shall be as follows:

(G) With respect to annuities issued on and after January 1, 1923, McClintock's table of mortality among annuitants with interest at not more than five percent (5%) for group annuity and pure endowment contracts and four percent (4%) for other annuity and pure endowment contracts, but annuities deferred ten (10) or more years and written in connection with life or term insurance, shall be valued on the same mortality table from which the consideration or premiums were computed with interest not higher than three and one-half percent (3 ½%);

(f) (i) This subsection (f) shall apply to only those policies and contracts issued on or after the operative date of W.S. 26-16-127 (standard nonforfeiture law) except as provided in W.S. 26-6-111(g) for group annuity and pure endowment contracts issued prior to the operative date.

(ii) Except as otherwise provided in subsection (g) of this section the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in paragraphs (iii) and (iv) of this subsection and subsection (d) of this section, five percent (5%) interest for group annuity and pure endowment contracts, three and one-half percent (3 ½%) interest for other annuity and pure endowment contracts, four percent (4%) interest for policies and contracts other than annuity and pure endowment contracts issued on or after July 1, 1975 and prior to May 20, 1981, four and one-half percent (4 ½%) interest for policies issued on or after May 20, 1981, and the following tables:

(A) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1958 standard ordinary mortality table and for such policies issued on or after the operative date of W.S. 26-16-127(k), the commissioners 1980 standard ordinary mortality table with ten (10) year select mortality factors, or any ordinary mortality table which is adopted after 1980 by the national association of insurance commissioners and is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies. For any category of such policies issued on female risks all modified net premiums and present values referred to in this subsection may be calculated according to an age not more than six (6) years younger than the actual age of the insured;

(B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1961 standard industrial mortality table or any industrial mortality table which is adopted after 1980 by the national association of insurance commissioners and is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies;

(E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, 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 or any tables of disablement rates and determination rates which is adopted after 1980 by the national association of insurance commissioners and is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(F) For accidental death benefits in or supplementary to policies, the 1959 accidental death benefits table or any accidental death benefits table which is adopted by the national association of insurance commissioners and is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation of such policies, combined with a mortality table permitted for calculating the reserves for life insurance policies;

(iii) (A) Except as provided in subsection (d) and paragraph (f)(iv) of this section 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 (1) over (2), as follows: (1) 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 (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy. (2) A net one (1) year term premium for such benefits provided for in the first policy year.

(B) 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 or deferred compensation plan established or maintained by an employer, an employee organization or both, other than a plan providing individual retirement accounts or annuities under section 408 of the internal revenue code, (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 other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of paragraph (iii) of this subsection, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(iv) This section applies to annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement or deferred compensation plan established or maintained by an employer, an employee organization, or both, other than a plan providing individual retirement accounts or annuities under section 408 of the internal revenue code. Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts excluding 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 the contract year. The future guaranteed benefits shall be determined by using the mortality table and the interest rates specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

(v) In no event shall an insurer'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 method set forth in paragraphs (ii), (iii) and (iv) of this subsection and subsection (b) of this section, and the mortality tables and rates of interest used in calculating nonforfeiture benefits for such policies.

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

(vii) For any plan of life insurance which provides the amounts of future premiums will be determined by the insurance company based on the then estimates of future experience or which is of a nature that minimum reserves cannot be determined by the methods described in paragraphs (iii) and (iv) of this subsection and subsection (d) of this section, the commissioner shall promulgate regulations for determining the reserves so they are:

(A) Appropriate in relation to the benefits and the pattern of premiums for that plan; and

(B) Computed by a method which is consistent with the principles of this standard valuation law.

(g) Except as provided in paragraph (ii) of this subsection the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection as defined in paragraph (g)(v) of this section, 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 method defined in paragraphs (f)(iii) and (iv) of this section and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to May 20, 1981, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent (6%) interest for single premium immediate annuity contracts, and four percent (4%) interest for all other individual annuity and pure endowment contracts;

(ii) For individual annuity and pure endowment contracts issued on or after May 20, 1981, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table which is adopted after 1980 by the national association of insurance commissioners and is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, and seven and one-half percent (7 ½%) interest for single premium immediate annuity contracts, five and one-half percent (5 ½%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4 ½%) interest for all other such individual annuity and pure endowment contracts;

(iii) For all annuities and pure endowments purchased prior to May 20, 1981 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent (6%) interest;

(iv) For all annuities and pure endowments purchased on or after May 20, 1981 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 which is adopted after 1980 by the national association of insurance commissioners and is approved by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, and seven and one-half percent (7 ½%) interest;

(v) Any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for such insurer. An insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no election, the operative date of this subsection for such insurer shall be January 1, 1979.

26-16-127. Standard Nonforfeiture Law.

(a) This section shall be known as the Standard Nonforfeiture Law for life insurance.

(b) In the case of policies issued on or after the operative date of this section, as defined in subsection (g) of this section, no policy of life insurance, except as stated in subsection (m) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(i) That in the event of default in any premium payment the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of the stipulated paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits;

(v) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate and method of use in calculating cash surrender values and the paid-up nonforfeiture benefits under the policy. All other policies shall contain a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy;

(d) (i) Cash surrender value: any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (b) of this section, shall be an amount not less than the excess, if any, of the present value, on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(A) The then present value of the adjusted premiums as defined in subsections (f) through (k) of this section corresponding to premiums which would have fallen due on and after such anniversary; and

(ii) For any policy issued on or after the operative date of subsection (k) of this section, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in paragraph (i) of this subsection shall be an amount not less than the sum of the cash surrender value as defined in the paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in the paragraph for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision;

(iii) For any family policy issued on or after the operative date of subsection (k) of this section, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in paragraph (i) of this section shall be an amount not less than the sum of the cash surrender value as defined in the paragraph for an otherwise similar policy issued at the same age without the term insurance on the life of the spouse and the cash surrender value as defined in the paragraph for a policy which provides only the benefits otherwise provided by the term insurance on the life of the spouse.

(iv) Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (b) of this section, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

(f) (i) This subsection does not apply to policies issued on or after the operative date of subsection (k) of this section. Except as provided in subsection (h) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairment or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(j) This subsection does not apply to ordinary policies issued on or after the operative date of subsection (k) of this section. All adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of the commissioners 1958 standard ordinary mortality table, however for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured. Calculations for all policies of industrial insurance shall be made on the basis of the commissioners 1961 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. The rate of interest shall not exceed three and one-half percent (3 ½%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after July 1, 1975 and prior to May 20, 1981 and a rate of interest not exceeding five and one-half percent (5 ½%) per annum may be used for policies issued on or after May 20, 1981. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table in the case of ordinary insurance, and the commissioners 1961 industrial extended term insurance table in the case of industrial policies. For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on any table of mortality specified by the insurer and approved by the commissioner.

(k) (i) This subsection applies to policies issued on or after the operative date in paragraph (x) of this subsection except as provided in subparagraph (vii) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be the uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (C) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. In applying the percentage specified in (C) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined;

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due;

(iii) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change;

(iv) Except as provided in paragraph (vii) of this subsection the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, all of such future adjusted premiums shall be equal to the excess of (A) the sum of (1) the then present value of the then future guaranteed benefits provided for by the policy and (2) the additional expense allowance, if any, over (B) the then cash surrender value, if any or present value of any paid-up nonforfeiture benefit under the policy;

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (A) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (B) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium;

(vi) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where:

(A) equals the sum of:

(1) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one (1) per annum payable

on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(2) The present value of the increase in future guaranteed benefits provided for by the policy; and

(B) Equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(vii) Notwithstanding any provision of this subsection, for a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis;

(viii) All adjusted premiums and present values referred to in this act shall be calculated for all policies of ordinary insurance on the basis of the commissioners 1980 standard ordinary mortality table or, 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; for all policies of industrial insurance on the basis of the commissioners 1961 standard industrial mortality table; and for all policies issued in a particular calendar year on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However:

(A) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (b) of this section, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(B) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;

(C) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance;

(D) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables;

(E) Any ordinary mortality tables 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 nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table;

(F) Any industrial mortality tables, 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 nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(ix) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be five and one-half percent (5 ½%);

(x) After the effective date of this subsection, any insurer may file with the commissioner a written notice of its election to comply with this section after a specified date before January 1, 1985, which shall be the operative date of subsection (k) of this section for the insurer. If an insurer does not make the election, the operative date of this section for the insurer shall be January 1, 1985.

(m) 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 insurer based on the then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (b) through (k) of this section, then:

(i) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (b) through (k) of this section;

(ii) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(iii) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less that the minimum values and benefits required for the plan computed by a method consistent with the principles of this standard nonforfeiture law for life insurance, as determined by regulations promulgated by the commissioner.

(n) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (d) through (k) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the amounts used to provide such additions. Notwithstanding subsection (d) of this section, the following additional benefits payable shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section and shall not be required to be included in any paid-up nonforfeiture benefits:

(vi) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits.

(o) This section does not apply to any:

(i) Reinsurance;

(ii) Group insurance;

(iii) Pure endowment;

(iv) Annuity or reversionary annuity contract;

(v) Term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;

(vi) Term policy of decreasing amount which provides no guaranteed nonforfeiture or endorsement benefits and on which each adjusted premium, calculated as specified in subsections (f) through (k) of this section, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age, for the same initial amount of insurance, and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;

(vii) Policy which provides no guaranteed nonforfeiture or endowment benefits and for which no cash surrender value or present value of paid-up nonforfeiture benefit at the beginning of the policy year and calculated as specified in subsections (d) through (k) of this section, exceed two and one-half percent (2 ½%) of the amount of insurance at the beginning of the policy year. For purposes of paragraph (vi) and this paragraph, the age at expiry of a joint term life insurance policy is the age at expiry of the oldest life; or

(viii) Policy which is delivered outside this state through an agent or other representative of the insurer issuing the policy.

(p) After the effective date of this code, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1970. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1970.

26-16-130. Allocation to separate accounts to provide for life insurance or annuities; regulation of variable contracts.

(e) Except for W.S. 26-16-118, 26-16-123, 26-16-124 and 26-16-133, in the case of a variable annuity contract and W.S. 26-16-104, 26-16-109, 26-16-110, 26-16-111, 26-16-127 and 26-17-111, in the case of a variable life insurance contract and except as otherwise provided in this section, all pertinent provisions of title 26, Wyoming Statutes 1977, apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract delivered or issued for delivery in this state shall contain grace, reinstatement and nonforfeiture provisions appropriate to such a contract. Any individual variable annuity contract delivered or issued for delivery in this state shall contain grace and reinstatement provisions appropriate to such a contract. Any group variable life insurance contract delivered or issued for delivery in this state shall contain a grace provision appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Section 3. This act is effective May 20, 1981.

Approved March 3, 1981.