

A Bill for an Act Relating to the Hawaii Insurance Law.

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

SECTION 1. Section 431-269, Hawaii Revised Statutes. is amended to read as follows:

“Sec. 431-269 Standard Valuation Law; life. (a) This section shall be known as the Standard Valuation Law.

(b) Annual valuation:

- (1) The insurance commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State, except that in the case of an alien insurer the valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, methods (net level premium method or others) used in the calculation of the reserves. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept, in his discretion, the insurer's calculation of the reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.
- (2) The actual cost of making valuations under this section shall be assessed on the insurer, whose policies are so valued, by the commissioner.
- (3) Any such insurer which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(c) Minimum valuation standard:

- (1) Old policies: Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all such policies and contracts issued prior to the operative date of section 431-561, shall be that provided by the laws in effect immediately prior to January 1, 1956.
- (2) Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all the policies and contracts issued on or after the operative date of section 431-561 shall be the Commissioners Reserve Valuation Methods defined in subsections (d), (e) and (h) of this section, three and

one-half per cent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1976 four per cent interest for such policies issued prior to June 1, 1979, five and one-half per cent interest for single premium life insurance policies and four and one-half per cent interest for all other such policies issued on or after June 1, 1979, 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 the policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section 431-561(e) (5), and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than six 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 the policies—the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 431-561(e) (6), and the Commissioners 1961 Standard Industrial Mortality Table for the policies issued on or after the operative date.
- (C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.
- (D) 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 the table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.
- (E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued after December 31, 1965, 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; for policies or contracts issued after December 31, 1960, and prior to January 1, 1966, either the tables or, at the option of the insurer, 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 reserves for life insurance policies.
- (F) For accidental death benefits in or supplementary to policies—for policies issued after December 31, 1965, the 1959 Accidental Death

- Benefits Table; for policies issued after December 31, 1960, and prior to January 1, 1966, either the table or, at the option of the insurer, 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.
- (G) For group life insurance, life insurance issued on the substandard basis, and other special benefits—such tables as may be approved by the commissioner.
- (3) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph 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 subsections (d) and (e) and the following tables and interest rates:
- (A) For individual annuity and pure endowment contracts issued prior to June 1, 1979, 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 per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts.
- (B) For individual single premium immediate annuity contracts issued on or after June 1, 1979, 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 seven and one-half per cent interest.
- (C) For individual annuity and pure endowment contracts issued on or after June 1, 1979, 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 modification of this table approved by the commissioner, and five and one-half per cent interest for single premium deferred annuity and pure endowment contracts and four and one-half per cent interest for all other such individual annuity and pure endowment contracts.
- (D) For all annuities and pure endowment contracts purchased prior to June 1, 1979 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 per cent interest.
- (E) For all annuities and pure endowments purchased on or after June 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner, and seven and one-half per cent interest.

After June 1, 1976, any insurer may file with the commissioner 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 insurer; provided that 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 such election, the operative date of this paragraph for such insurer shall be January 1, 1979.

(d) Commissioners Reserve Valuation Methods:

(1) Except as otherwise provided in subsections (e) and (h), reserves according to the Commissioners Reserve Valuation Methods, 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 the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for such benefits (excluding extra premiums on a substandard policy) 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 the 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 the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one a year payable on the first and each subsequent anniversary of the policy on which a premium falls due; provided, that the 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 of issue of such policy.

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

(2) Reserves according to the Commissioners Reserve Valuation Methods for (A) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (B) 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, (C) disability and accidental death benefits in all policies and contracts, and (D) 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 subsection (d).

(e) This subsection 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.

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.

(f) Minimum aggregate reserves: In no event shall an insurer's aggregate reserves for all life insurance policies excluding disability and accidental death benefits, issued on or after the operative date of section 431-561, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), (e) and (g) and the mortality tables and rates of interest used in calculating nonforfeiture benefits for such policies.

(g) Optional reserves bases: Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after the operative date of section 431-561, may be calculated, at the option of the insurer according to any standards which produce greater aggregate reserves for the 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. Any such company which at any time shall have adopted any standard valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(h) Minimum reserve: 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 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 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."

SECTION 2. Section 431-561, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 431-561 Standard nonforfeiture law; life insurance contracts. (a) This section shall be known as the Standard Nonforfeiture Law for Life Insurance.

(b) Nonforfeiture provisions—life:

(1) In the case of policies issued on or after the operative date of this section as defined in subsection (h), no policy of life insurance, except as stated in subsection (g), 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 insurance commissioner are at least as favorable to the defaulting or surrendering policyholder:

- (A) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty 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 the due date, of such value as may be hereinafter specified.
- (B) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.
- (C) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.
- (D) That, if the policy has been paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.
- (E) 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 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.
- (F) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the jurisdiction in which the policy is delivered; an explanation of

the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that the method of computation has been filed with the insurance supervisory official of the jurisdiction in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(2) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(3) The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(c) Cash surrender value—life:

(1) 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 the 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 subsection (e) of this section, corresponding to premiums which would have fallen due on and after the anniversary, and

(B) The amount of any indebtedness to the insurer on account of any indebtedness to the insurer on account of or secured by the policy.

(2) Any cash surrender value available within thirty 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 benefits, whether or not required by such subsection (b), shall be an amount not less than the present value, on the 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 account of or secured by the policy.

(d) Paid-up nonforfeiture benefit—life. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of the anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(e) The adjusted premium—life:

(1) Except as provided in subsection (e)(4) of this section, the adjusted pre-

miums 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 extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such 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) Two per cent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;
 - (C) Forty per cent of the adjusted premium for the first policy year;
 - (D) Twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.
- (2) Provided, that in applying the percentages specified in (C) and (D) above, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy.
- (3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this paragraph shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten was the amount provided by the policy at age ten.
- (4) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (B) the adjusted premiums for the term insurance, the foregoing items (A) and (B) being calculated separately and as specified in subsection (e)(1), (2), and (3) except that, for the purposes of subsection (e)(1)(B), (C), and (D) the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (B) shall be equal to the excess of the corresponding amount determined for the entire policy over

- the amount used in the calculation of the adjusted premiums in (A).
- (5) Except as otherwise provided in paragraphs (6) and (7) of subsection (e) 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 1941 Standard Ordinary Mortality Table, provided that 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 three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent a year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, that 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 one hundred thirty per cent of the rates of mortality according to the applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.
- (6) In the case of ordinary policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies issued on or after June 1, 1976 and prior to June 1, 1979 and a rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent a year may be used, and provided further that, 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 years younger than the actual age of the insured; provided, that 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; provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After June 1, 1959, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (6) after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph (6) for

such insurer), this paragraph (6) shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this paragraph (6) for such insurer shall be January 1, 1966.

- (7) In the case of industrial policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that such rate of interest shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies issued on or after June 1, 1976 and prior to June 1, 1979 and a rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent a year may be used, provided further that 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 1961 Industrial Extended Term Insurance Table; provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After May 8, 1965, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such insurer), this paragraph shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1968.

(f) Calculation of values; life. 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 (c), (d), and (e) 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 be not less than the dividends used to provide such additions. Notwithstanding subsection (c) of this section, additional benefits payable:

- (1) In the event of death or dismemberment by accident or accidental means,
- (2) In the event of total and permanent disability,
- (3) As reversionary annuity or deferred reversionary annuity benefits,

- (4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,
- (5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and
- (6) As other policy benefits additional to life insurance and endowment benefits,

and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(g) Exceptions. This section shall not apply to any reinsurance, group insurance, pure endowment, annuity, or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (e) of this section, is less than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance nor to any policy which shall be delivered outside this State through an agent or other representative of the insurer issuing the policy.

(h) Operative date. After January 1, 1956, 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 within six months from January 1, 1956. After the filing of such notice, then upon such specified date (which shall be the operative date 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 six months from January 1, 1956."

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 431- Standard nonforfeiture law; 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 (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 nor apply to any 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 shall be delivered outside this State through an agent or other representative of the insurer issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section as

defined in subsection (d),[†] 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.

- (1) That upon cessation of payment of considerations under a contract, the insurer 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), (h), and (j).
 - (2) 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 insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of the amount as specified in subsections (e), (f), (h), and (j). The insurer shall reserve the right to defer the payment of the cash surrender benefit for a period of six months after demand therefor with surrender of the contract.
 - (3) A statement of the mortality table, if any, 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 the benefits.
 - (4) 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 the benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. 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 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 the period would be less than \$20 monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by the payment shall be relieved of any further obligation under the contract.
- (d) The minimum values as specified in subsections (e), (f), (g), (h), and (j) 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 subsection.
- (1) 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 that time at a rate of interest of three per cent per annum of percentages of the net

[†]So in original. Probably should read "(l)".

considerations paid prior to that 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 per cent per annum; and
- (B) 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 insurer 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 \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five per cent of the net consideration for the first contract year and eighty-seven and one-half per cent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five per cent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five per cent.

- (2) 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 exceptions:
 - (A) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five per cent of the net consideration for the first contract year plus twenty-two and one-half per cent 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 \$30 or ten per cent of the gross annual consideration.
- (3) 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 considerations used to determine the minimum nonforfeiture amount shall be equal to ninety per cent and the net consideration shall be the gross consideration less a contract charge of \$75.

(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. The present value shall be computed using the mortality table, if any, 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, the cash surrender benefits available prior to maturity shall not be less than the present value as of the 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, the present value being calculated on the basis of an interest rate not more than one per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer 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 these 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, the 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 the maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, the present values shall be calculated on the basis of the 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), 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 is to be the latest date for which election shall be permitted by the contract, but is not 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.

(i) 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 the benefits are not provided.

(j) 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 consideration beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(k) 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), (h), and (j), additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as

other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this section. The inclusion of additional benefits shall not be required in any paid-up benefits, unless these additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

(1) After June 1, 1979, 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 June 1, 1981. After the filing of the notice, then upon the specified date, which shall be the operative date of this section for the insurer, this section shall become operative with respect to annuity contracts thereafter issued by the insurer. If an insurer makes no election, the operative date of this section for the insurer shall be June 1, 1981."

SECTION 4. Section 434-17, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 434-17 Nonforfeiture benefits, cash surrender values, certificate loans and other options. (a) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans, and such other options as its laws may permit. As to certificates issued on and after July 10, 1961, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity, or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of fifteen years or less expiring before age sixty-six.

(b) In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, or any more recent table made applicable to life insurance companies, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the excess, if any, of (1) or (2) as follows:

- (1) The reserve under the certificate determined on the basis specified in the certificate; and
- (2) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half per cent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(c) In the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty per cent of those shown by the mortality table specified in the certificate for the computation of the reserve.

(d) In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard

Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, or any more recent table made applicable to life insurance companies, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this State applicable to life insurers issuing policies containing like insurance benefits based upon such tables.”

SECTION 5. Subsection (j) of Section 434-35, Hawaii Revised Statutes, is amended to read as follows:

“(j) The minimum standard of valuation for certificates issued after July 9, 1962 shall be three and one-half per cent interest and the following tables:

- (1) For certificates of life insurance—American Men Ultimate Table of Mortality, with Bowerman’s or Davis’ Extension thereof or with the consent of the commissioner, the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than three years younger than the actual age of the insured for female risks;
- (2) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in the certificates—the 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner;
- (3) For total and permanent disability benefits in or supplementary to life insurance certificates—Hunter’s Disability Table or the Class III Disability Table (1926) modified to conform to the contractual waiting period, or 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 such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates;
- (4) For accidental death benefits in or supplementary to life insurance certificates—the Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates; and
- (5) For noncancellable accident and health benefits—the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society’s own experience; provided, however, that any society may value its certificates in accordance with valuation standards authorized by the laws of this State for the valuation of policies issued by life insurance companies.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 7. This Act shall take effect on June 1, 1979.

(Approved May 12, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.