



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 117

AS ENACTED

WEDNESDAY, MARCH 11, 2015

RECEIVED AND FILED
DATE March 23, 2015
4:40 pm

ALISON UNDERGIAN GRIME'S
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to insurance.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 Section 1. KRS 304.3-400 is amended to read as follows:

4 As used in KRS 304.3-400 to 304.3-430, unless the context requires otherwise:

- 5 (1) "Accredited state" means a state in which the insurance regulatory agency has
6 qualified as meeting the minimum financial regulatory standards promulgated and
7 established from time to time by the National Association of Insurance
8 Commissioners;
- 9 (2) "Control" or "controlled" has the meaning set forth in KRS 304.37-010(8);
- 10 (3) "Controlled insurer" means an authorized insurer which is controlled, directly or
11 indirectly, by a producer;
- 12 (4) "Controlling producer" means a producer who directly or indirectly, controls an
13 insurer;
- 14 (5) "Authorized insurer" or "insurer" means an insurer holding a certificate of authority
15 from the commissioner to transact property or casualty insurance business in
16 Kentucky. The following, among others, are not authorized insurers for the
17 purposes of KRS 304.3-400 to 304.3-430:
- 18 (a) ~~{All risk retention groups as defined in the Superfund Amendments~~
19 ~~Reauthorization Act of 1986, (P.L. 99-499, 100 Stat. 1613, and the Liability~~
20 ~~Risk Retention Act, 15 U.S.C. secs. 3901 et seq.) and Subtitle 45 of this~~
21 ~~chapter;~~
- 22 ~~(b)~~—}All residual market mechanisms and joint underwriting authorities or
23 associations; and
- 24 ***(b){(e)}*** All captive insurers, ***other than risk retention groups as defined in 15***
25 ***U.S.C. secs. 3901 et seq. and 42 U.S.C. sec. 9671, including***~~[that is,]~~ insurers
26 owned by another organization whose exclusive purpose is to insure risks of
27 the parent organization and affiliated companies or, in the case of groups and

1 associations, insurance organizations owned by the insureds whose exclusive
2 purpose is to insure risks to member organizations or group members and
3 their affiliates; and

4 (6) "Producer" means a person, firm, association, or corporation, when, for any
5 compensation, commission, or other thing of value, the person, firm, association, or
6 corporation acts or aids in any manner in soliciting, negotiating, or procuring the
7 making of any insurance contract on behalf of an insured other than the person,
8 firm, association, or corporation.

9 ➔Section 2. KRS 304.37-050 is amended to read as follows:

10 (1) (a) All documents, materials, or other information~~[- documents, and copies~~
11 ~~thereof]~~ in the possession or control of the department that are obtained by
12 or disclosed to the commissioner by any other person in the course of an
13 examination, analysis, or investigation made pursuant to KRS 304.37-040 and
14 all information reported pursuant to KRS 304.37-020, shall:

15 1. Be confidential by law and privileged; and

16 2. Not be subject to:

17 a. The Kentucky Open Records Act, KRS 61.872 to 61.884;

18 b. Subpoena;

19 c. Discovery; or

20 d. Admission in evidence in any private civil action.~~[be given~~
21 ~~confidential treatment and shall not be subject to subpoena and~~
22 ~~shall not be made public by the commissioner or any other person,~~
23 ~~except to insurance departments of other states,]~~

24 (b) The commissioner may use the documents, materials, or other information
25 in the furtherance of any regulatory or legal action brought as a part of the
26 commissioner's official duties.

27 (c) The commissioner shall not otherwise make the documents, materials, or

1 other information public without the prior written consent of the insurer to
2 which it pertains unless the commissioner, after giving the insurer and its
3 affiliates who would be affected thereby notice and opportunity to be heard,
4 determines that the interests of policyholders, shareholders, or the public will
5 be served by the publication thereof, in which event the commissioner may
6 publish all or any part thereof in such manner as the commissioner may deem
7 appropriate.

8 (2) Neither the commissioner nor any person who received documents, materials, or
9 other information while acting under the authority of the commissioner or with
10 whom such documents, materials, or other information are shared, pursuant to
11 this subtitle, shall be permitted or required to testify in any private civil action
12 concerning any confidential documents, materials, or other information subject
13 to subsection (1) of this section.

14 (3) The commissioner:

15 (a) May share documents, materials, or other information, including
16 confidential and privileged documents, materials, or other information
17 subject to subsection (1) of this section, with other state, federal, and
18 international regulatory agencies, the National Association of Insurance
19 Commissioners and its affiliates and subsidiaries, and with state, federal
20 and international law enforcement authorities, including members of any
21 supervisory college described in KRS 304.37-055, if the recipient agrees in
22 writing to maintain the confidentiality and privileged status of the
23 documents, materials, or other information, and has verified in writing the
24 legal authority to maintain confidentiality;

25 (b) May only share confidential and privileged documents, materials, or other
26 information reported pursuant to KRS 304.37-020(13), notwithstanding
27 paragraph (a) of this subsection, with commissioners of states having

1 statutes or regulations substantially similar to subsection (1) of this section,
2 and who have agreed in writing not to disclose such information;

3 (c) 1. May receive documents, materials, or other information, including
4 confidential and privileged documents, materials, or other information
5 from the National Association of Insurance Commissioners and its
6 affiliates and subsidiaries and from regulatory and law enforcement
7 officials of other foreign or domestic jurisdiction; and

8 2. Shall maintain as confidential or privileged any documents, materials,
9 or other information received with notice or the understanding that it
10 is confidential or privileged under the laws of the jurisdiction that is
11 the source of the documents, materials, or other information; and

12 (d) Shall enter into written agreements with the National Association of
13 Insurance Commissioners governing sharing and use of information
14 provided pursuant to this subtitle, consistent with this subsection that:

15 1. Specify procedures and protocols regarding the confidentiality and
16 security of information shared with the National Association of
17 Insurance Commissioners and its affiliates and subsidiaries, pursuant
18 to this subtitle, including procedures and protocols for sharing the
19 National Association of Insurance Commissioners with other state,
20 federal, or international regulators;

21 2. Specify that ownership of information shared with the National
22 Association of Insurance Commissioners and its affiliates and
23 subsidiaries, pursuant to this subsection, remains with the
24 commissioner, and the National Association of Insurance
25 Commissioners' use of the information is subject to the direction of
26 the commissioner;

27 3. Require prompt notice be given to an insurer whose confidential

1 information, in the possession of the National Association of
 2 Insurance Commissioners, pursuant to this subtitle, is subject to a
 3 request or subpoena to the National Association of Insurance
 4 Commissioners, pursuant to this subtitle, for disclosure or production;
 5 and

6 4. Require the National Association of Insurance Commissioners and its
 7 affiliates and subsidiaries to consent to intervention by an insurer in
 8 any judicial or administrative action in which the National
 9 Association of Insurance Commissioners and its affiliates and
 10 subsidiaries may be required to disclose confidential information
 11 about the insurer shared with the National Association of Insurance
 12 Commissioners and its affiliates and subsidiaries.

13 (4) The sharing of information by the commissioner shall not constitute a delegation
 14 of regulatory authority or rulemaking, and the commissioner is solely responsible
 15 for administration, execution, and enforcement of this subtitle.

16 (5) A waiver of any applicable privilege or claim of confidentiality in the documents,
 17 materials, or information shall not occur as a result of disclosure to the
 18 commissioner under this section or as a result of sharing as authorized in
 19 subsection (3) of this section.

20 (6) Documents, materials, or information in the possession or control of the National
 21 Association of Insurance Commissioners and its affiliates and subsidiaries,
 22 pursuant to this subtitle, shall:

23 (a) Be confidential by law and privileged; and

24 (b) Not be subject to:

25 1. The Kentucky Open Records Act, KRS 61.872 to 61.884;

26 2. Subpoena;

27 3. Discovery; or

1 4. Admission in evidence in any private civil action.

2 ➔SECTION 3. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
3 CREATED TO READ AS FOLLOWS:

4 As used in KRS 304.6-130 to 304.6-180, unless the context requires otherwise, the
5 following definitions shall apply on or after the operative date of the valuation manual,
6 as defined in subsection (11) of this section:

7 (1) "Accident and health insurance" means contracts that incorporate morbidity risk
8 and provide protection against economic loss resulting from accident, sickness, or
9 medical conditions and as may be specified in the valuation manual;

10 (2) "Appointed actuary" means a qualified actuary who is appointed in accordance
11 with the valuation manual to prepare the actuarial opinion required by
12 subsections (6) to (10) of Section 14 of this Act;

13 (3) "Company" means an entity which has written, issued, or reissued life
14 insurance, accident and health insurance, or deposit-type contracts:

15 (a) In Kentucky and has at least one (1) policy in force or a claim; or

16 (b) In any state and is required to hold a certificate of authority to write life
17 insurance, accident and health insurance, or deposit-type contracts in this
18 state;

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

21 (5) "Life insurance" means contracts that incorporate mortality risk, including
22 annuity and pure endowment contracts, and as may be specified in the valuation
23 manual;

24 (6) "NAIC" means the National Association of Insurance Commissioners;

25 (7) "Policyholder behavior" means any action a policyholder, contract holder, or
26 any other person with the right to elect options may take under a policy or
27 contract subject to KRS 304.6-130 to 304.6-180, excluding events of mortality that

1 result in benefits prescribed in their essential aspects by the terms of the policy or
 2 contract, including but not limited to:

3 (a) Lapse;

4 (b) Withdrawal;

5 (c) Transfer;

6 (d) Deposit;

7 (e) Premium payment;

8 (f) Loan;

9 (g) Annuitization; or

10 (h) Benefit elections;

11 (8) "Principle-based valuation" means a reserve valuation that uses one (1) or more
 12 methods or one (1) or more assumptions determined by the company and is
 13 required to comply with Section 6 of this Act as specified in the valuation
 14 manual;

15 (9) "Qualified actuary" means an individual who is qualified to sign the applicable
 16 statement of actuarial opinion in accordance with the American Academy of
 17 Actuaries qualification standards for actuaries signing the statements and who
 18 meets the requirements specified in the valuation manual;

19 (10) "Tail risk" means a risk that occurs either where the frequency of low-
 20 probability events is higher than expected under a normal probability distribution
 21 or when there are observed events of very significant size or magnitude; and

22 (11) "Valuation manual" means the manual of valuation instructions adopted by the
 23 NAIC and any subsequent amendments.

24 ➔SECTION 4. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 25 CREATED TO READ AS FOLLOWS:

26 (1) For accident and health insurance contracts issued on or after the operative date
 27 of the valuation manual, the standard prescribed in the valuation manual is the

1 minimum standard of valuation required by subsection (2) of Section 10 of this
 2 Act.

3 (2) For disability, accident and sickness, and accident and health insurance
 4 contracts issued on or after June 18, 1970, but prior to the operative date of the
 5 valuation manual, the minimum standard of valuation shall be the standard
 6 adopted by the commissioner through administrative regulation.

7 →SECTION 5. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 8 CREATED TO READ AS FOLLOWS:

9 (1) For policies issued on or after the operative date of the valuation manual, the
 10 standard prescribed in the valuation manual shall be the minimum standard of
 11 valuation required under subsection (2) of Section 10 of this Act, except as
 12 provided by subsection (5) or (7) of this section.

13 (2) The operative date of the valuation manual shall be January 1 of the first
 14 calendar year following the first July 1, at which time all of the following have
 15 occurred:

16 (a) The valuation manual has been adopted by the NAIC by an affirmative vote
 17 of at least forty-two (42) members, or three-fourths (3/4) of the members
 18 voting, whichever is greater;

19 (b) The Standard Valuation Law, as amended by the NAIC in 2009, or
 20 legislation including substantially similar terms and provisions, has been
 21 enacted by states representing greater than seventy-five percent (75%) of the
 22 direct premiums written as reported in the following annual statements
 23 submitted for 2008:

24 1. Life, accident and health insurance;

25 2. Health insurance; or

26 3. Fraternal benefit societies, as defined in KRS 304.29-011, insurance;

27 and

1 (c) The Standard Valuation Law, as amended by the NAIC in 2009, or
 2 legislation including substantially similar terms and provisions, has been
 3 enacted in by at least forty-two (42) of the fifty-five (55) jurisdictions,
 4 including:

5 1. The fifty (50) states of the United States;

6 2. American Samoa;

7 3. The American Virgin Islands;

8 4. The District of Columbia;

9 5. Guam; and

10 6. Puerto Rico.

11 (3) (a) Unless a change in the valuation manual specifies a later effective date,
 12 changes to the valuation manual shall be effective on January 1 following
 13 the date when all of the following have occurred:

14 1. The change to the valuation manual has been adopted by the NAIC by
 15 an affirmative vote representing:

16 a. At least three-fourths (3/4) of the members of the NAIC voting,
 17 but not less than a majority of the total membership; and

18 b. Members of the NAIC representing jurisdictions totaling greater
 19 than seventy-five percent (75%) of the direct premiums written as
 20 reported in the following annual statements most recently
 21 available prior to the vote required by subparagraph 1. of this
 22 paragraph:

23 i. Life, accident and health insurance;

24 ii. Health insurance; or

25 iii. Fraternal benefit societies, as defined in KRS 304.29-011,
 26 insurance; or

27 (b) The valuation manual becomes effective pursuant to an order by the

1 commissioner.

2 (4) The valuation manual shall specify the following:

3 (a) Minimum valuation standards for and definitions of the policies or
4 contracts subject to subsection (2) of Section 10 of this Act. The minimum
5 valuation standards shall be:

6 1. The commissioner's reserve valuation method for life insurance
7 contracts, other than annuity contracts;

8 2. The commissioner's annuity valuation method for annuity contracts;
9 and

10 3. Minimum reserves for all other policies or contracts.

11 (b) Which policies or contracts or types of policies or contracts that are subject
12 to the requirements of a principle-based valuation, required by subsection
13 (1) of Section 6 of this Act, and the minimum valuation standards
14 consistent with those requirements;

15 (c) For policies and contracts subject to a principle-based valuation under
16 subsection (2)(c) of Section 6 of this Act:

17 1. Requirements for the format of the reports to the commissioner,
18 including information necessary to determine if the valuation is
19 appropriate and in compliance with KRS 304.6-130 to 304.6-180;

20 2. Assumptions to be prescribed for risks over which the company does
21 not have significant control or influence; and

22 3. Procedures for corporate governance and oversight of the actuarial
23 function, and a process for appropriate waiver or modification of the
24 procedures;

25 (d) For policies not subject to a principle-based valuation under Section 6 of
26 this Act, the minimum valuation standard shall either:

27 1. Be consistent with the minimum standard of valuation prior to the

1 operative date of the valuation manual; or
 2 2. Develop reserves that quantify the benefits and guarantees, and the
 3 funding associated with the contracts and their risks at a level of
 4 conservatism that reflects conditions that include unfavorable events
 5 that have a reasonable probability of occurring;

6 (e) Other requirements, including but not limited to:

- 7 1. Those relating to reserve methods;
 8 2. Models for measuring risk;
 9 3. Generation of economic scenarios;
 10 4. Assumptions;
 11 5. Margins;
 12 6. Use of company experience;
 13 7. Risk measurement;
 14 8. Disclosure;
 15 9. Certifications;
 16 10. Reports;
 17 11. Actuarial opinions and memorandums;
 18 12. Transition rules; and
 19 13. Internal controls; and

20 (f) The data and form of the data required by Section 7 of this Act and with
 21 whom the data shall be submitted, and may specify other requirements
 22 including data analyses and reporting of analyses.

23 (5) In the absence of a specific valuation requirement or if a specific valuation
 24 requirement in the valuation manual is not, in the opinion of the commissioner,
 25 in compliance with Section 6 of this Act, the company shall, with respect to the
 26 requirements, comply with minimum valuation standards prescribed by the
 27 commissioner by administrative regulation.

1 (6) The commissioner may engage a qualified actuary, at the expense of the
 2 company, to perform an actuarial examination of the company and to opine on
 3 the appropriateness of a reserve assumption or method used by the company, or
 4 to review and opine on a company's compliance with any requirement set forth in
 5 KRS 304.6-130 to 304.6-180. The commissioner may rely upon the opinion of a
 6 qualified actuary, regarding KRS 304.6-130 to 304.6-180, who is engaged by the
 7 commissioner of another state, district, or territory of the United States. As used
 8 in this subsection, the term "engage" includes employment or contracting.

9 (7) The commissioner may require a company to change any assumption or method
 10 that in the opinion of the commissioner is necessary to comply with the
 11 requirement of the valuation manual or KRS 304.6-130 to 304.6-180. The
 12 company shall adjust the reserves as required by the commissioner. The
 13 commissioner may take other disciplinary action as permitted under this subtitle.

14 ➔SECTION 6. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 15 CREATED TO READ AS FOLLOWS:

16 (1) A company shall establish reserves using a principle-based valuation as specified
 17 in the valuation manual that meets the following conditions for policies or
 18 contracts:

19 (a) Quantification of the benefits and guarantees, and the funding associated
 20 with the contracts and their risks, at a level of conservatism that reflects
 21 conditions that include unfavorable events that have a reasonable
 22 probability of occurring during the lifetime of the contracts. For policies or
 23 contracts with significant tail risk, the valuation shall also reflect conditions
 24 appropriately adverse to quantify the tail risk;

25 (b) Incorporation of assumptions, risk analysis methods, financial models, and
 26 management techniques that are consistent with but not necessarily
 27 identical to those utilized within the company's overall risk assessment

- 1 process, while recognizing potential differences in financial reporting
2 structures and any prescribed assumptions or methods;
- 3 (c) Incorporation of assumptions that are derived in one (1) of the following
4 manners:
- 5 1. The assumption is prescribed in the valuation manual;
6 2. For assumptions that are not prescribed, the assumptions shall:
- 7 a. Be established utilizing the company's available experience, to
8 the extent it is relevant and statistically credible; or
9 b. To the extent that company data is not available, relevant, or
10 statistically credible, be established utilizing other relevant,
11 statistically credible experience; and
- 12 (d) Provision of margins for uncertainty, including adverse deviation and
13 estimation error, to ensure that the greater the uncertainty the larger the
14 margin and resulting reserve.
- 15 (2) A company using a principle-based valuation for one (1) or more policies or
16 contracts subject to this section, as specified in the valuation manual, shall:
- 17 (a) Establish procedures for corporate governance and oversight of the
18 actuarial valuation function consistent with those described in the valuation
19 manual;
- 20 (b) Provide to the commissioner and the company's board of directors, an
21 annual certification of the effectiveness of the internal controls with respect
22 to the principle-based valuation. The controls shall be designed to ensure
23 that all material risks inherent in the liabilities and associated assets,
24 subject to the valuation, are included in the valuation and that valuations
25 are made in accordance with the valuation manual. The certification shall
26 be based on the controls in place as of the end of the preceding calendar
27 year; and

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

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

6 →SECTION 7. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 7 CREATED TO READ AS FOLLOWS:

8 A company shall submit mortality, morbidity, policyholder behavior, or expense
 9 experience, and other data as prescribed in the valuation manual.

10 →SECTION 8. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 11 CREATED TO READ AS FOLLOWS:

12 (1) For purposes of this section:

13 (a) "Confidential information" means:

14 1. A memorandum in support of an opinion, submitted pursuant to
 15 Section 14 of this Act, and any other documents, materials, and other
 16 information, including but not limited to all working papers and
 17 copies created, produced, obtained by, or disclosed to the
 18 commissioner or any other person in connection with the
 19 memorandum;

20 2. All documents, materials, and other information, including but not
 21 limited to all working papers and copies created, produced, obtained
 22 by, or disclosed to the commissioner or any other person in the course
 23 of an examination made under subsection (6) of Section 5 of this Act;
 24 except that if an examination report or other material prepared in
 25 connection with an examination made under KRS 304.2-250 is not
 26 held as private and confidential, an examination report or other
 27 material prepared in connection with an examination under

1 subsection (6) of Section 5 of this Act shall not be confidential
2 information to the same extent as if the examination report or other
3 material had been prepared under KRS 304.2-250;

4 3. Any reports, documents, materials, and other information developed
5 by a company in support of, or in connection with an annual
6 certification by the company under subsection (2)(b) of Section 6 of
7 this Act evaluating the effectiveness of the company's internal controls
8 with respect to a principle-based valuation and any other documents,
9 materials, and other information, including but not limited to all
10 working papers and copies created, produced, obtained by, or disclosed
11 to the commissioner or any other person in connection with reports,
12 documents, materials, and other information;

13 4. Any principle-based valuation report developed under subsection
14 (2)(c) of Section 6 of this Act and any other documents, materials, and
15 other information, including but not limited to all working papers and
16 copies created, produced, obtained by, or disclosed to the
17 commissioner or any other person in connection with the report; and

18 5. Any documents, materials, data and other information submitted by a
19 company under Section 7 of this Act, collectively referred to as
20 experience data, and any other documents, materials, data, and other
21 information, including but not limited to all working papers and
22 copies created or produced in connection with the experience data, in
23 each case that includes any potential company-identifying or personal
24 identifiable information that is provided to or obtained by the
25 commissioner, with any experience data referred to as the experience
26 materials, and any other documents, materials, data, and other
27 information, including but not limited to all working papers and

1 copies created, produced, obtained by, or disclosed to the
 2 commissioner or any other person in connection with the experience
 3 materials; and

4 (b) "Regulatory agency," "law enforcement agency," and "NAIC" include,
 5 but are not limited to their employees, agents, or consultants.

6 (2) (a) Except as provided in this section, a company's confidential information:

7 1. Shall be confidential by law and privileged; and

8 2. Shall not be subject to:

9 a. The Kentucky Open Records Act, KRS 61.872 to 61.884;

10 b. Subpoena;

11 c. Discovery; or

12 d. Admission in evidence in any private civil action, except that the
 13 commissioner is authorized to use the confidential information
 14 in the furtherance of any regulatory or legal action brought
 15 against the company as part of the commissioner's official
 16 duties.

17 (b) Neither the commissioner nor any person who received confidential
 18 information, while acting under the authority of the commissioner, shall be
 19 permitted or required to testify in any private civil action concerning any
 20 confidential information.

21 (c) In order to assist in the performance of the commissioner's duties, the
 22 commissioner may share confidential information if the recipient agrees,
 23 and has the legal authority to agree, to maintain the confidentiality and
 24 privileged status of the documents, materials, data, and other information in
 25 the same manner and to the same extent as required for the commissioner
 26 with:

27 1. Other state, federal, and international regulatory agencies and with

1 the NAIC and its affiliates and subsidiaries; and

2 2. In the case of confidential information, defined in subsection (1)(a)1.
3 and 4. of this section, the Actuarial Board for Counseling and
4 Discipline or its successor upon request stating that the confidential
5 information is required for the purpose of professional disciplinary
6 proceedings and with state, federal, and international law enforcement
7 officials.

8 (d) The commissioner may receive documents, materials, data, and other
9 information, including otherwise confidential and privileged documents,
10 materials, data, and other information from the NAIC and its affiliates and
11 subsidiaries, from regulatory or law enforcement officials of other foreign
12 or domestic jurisdictions, and from the Actuarial Board for Counseling and
13 Discipline, or its successor, and shall maintain as confidential or privileged
14 any documents, materials, data, or other information received with notice or
15 the understanding that it is confidential or privileged under the laws of the
16 jurisdiction that is the source of the document, material, or other
17 information.

18 (e) The commissioner may enter into agreements governing sharing and use of
19 information consistent with this subsection.

20 (f) No waiver of any applicable privilege or claim of confidentiality of
21 confidential information shall occur as a result of disclosure to the
22 commissioner under this section, or as a result of sharing the information
23 as authorized by paragraph (c) of this subsection.

24 (g) A privilege established under the law of any state or jurisdiction that is
25 substantially similar to the privilege established under this subsection shall
26 be available and enforced in any proceeding and in any court of this state.

27 (3) (a) Notwithstanding subsection (2) of this section, any confidential information

1 specified in subsection (1)(a)1. and 4. of this section:

2 1. May be subject to subpoena for the purpose of defending an action
 3 seeking damages from the appointed actuary submitting the related
 4 memorandum in support of an opinion submitted under Section 14 of
 5 this Act, or the principle-based valuation report developed under
 6 subsection (2)(c) of Section 6 of this Act, by reason of an action
 7 required by KRS 304.6-130 to 304.6-180, or by administrative
 8 regulation.

9 2. May otherwise be released by the commissioner with the written
 10 consent of the company; and

11 (b) All portions of a memorandum or report shall no longer be confidential if
 12 any portion of a memorandum in support of an opinion, submitted under
 13 Section 14 of this Act, or a principle-based valuation report, developed
 14 under subsection (2)(c) of Section 6 of this Act, is cited by the company in
 15 its marketing, is publicly volunteered to or before a governmental agency,
 16 other than a state insurance department, or is released by the company to
 17 the news media.

18 ➔SECTION 9. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS
 19 CREATED TO READ AS FOLLOWS:

20 (1) The commissioner may exempt specific product forms or product lines of a
 21 domestic company, that is licensed and doing business only in Kentucky, from the
 22 requirements of Section 5 of this Act if:

23 (a) The commissioner has issued an exemption in writing to the company and
 24 has not subsequently revoked the exemption in writing; and

25 (b) The company computes reserves using assumptions and methods used prior
 26 to the operative date of the valuation manual and any requirements
 27 established by the commissioner and promulgated by administrative

1 regulation.

2 (2) A domestic company that has less than three hundred million dollars
3 (\$300,000,000) of ordinary life premiums or a company that is a member of a
4 group of life insurers that has combined ordinary life premiums of less than six
5 hundred million dollars (\$600,000,000) and that is licensed and doing business in
6 Kentucky is exempt from the requirements of Sections 5 and 6 of this Act if:

7 (a) The company reported total adjusted capital of at least four hundred fifty
8 percent (450%) of authorized control level risk-based capital in the risk-
9 based capital report for the prior calendar year;

10 (b) The appointed actuary has provided an unqualified opinion on the reserves
11 in accordance with Section 14 of this Act for the prior calendar year; and

12 (c) The company has provided a certification by a qualified actuary that any
13 universal life policy with a secondary guarantee, issued or assumed by the
14 company after the operative date of the valuation manual, meets the
15 definition of a nonmaterial secondary guarantee universal life product as
16 defined in the valuation manual.

17 (3) For purposes of subsection (2) of this section, ordinary life premiums are
18 measured as direct, plus reinsurance assumed from an unaffiliated company,
19 from the prior calendar year annual statement.

20 (4) A domestic company that meets the requirements of subsection (2) of this section
21 shall file a statement with the commissioner certifying that these requirements
22 have been met for the current calendar year based on premiums and other values
23 from the prior calendar year's financial statements prior to July 1 of the current
24 calendar year.

25 (5) For a domestic company that files a statement under subsection (4) of this
26 section, Sections 4, 7, 8, 10, 11, 12, 13, and 14 of this Act, KRS 304.6-140, 304.6-
27 145, 304.6-155, 304.6-170, 304.6-180, and 304.15-410 shall be applicable;

1 however any references to Sections 5 and 6 of this Act shall not apply.

2 → Section 10. KRS 304.6-130 is amended to read as follows:

3 (1) (a) For policies and contracts issued prior to the operative date of the valuation

4 manual, the commissioner shall annually value, or cause to be valued, the
5 reserve liabilities, hereinafter called reserves, for all outstanding life insurance
6 policies and annuity and pure endowment contracts of every life insurer
7 transacting business in this state, except that in the case of an alien insurer,
8 such valuation shall be limited to its United States business; and may certify
9 the amount of any such reserves, specifying the mortality table or tables, rate
10 or rates of interest and methods, net leveled premium method or other, used in
11 the calculation of such reserves. In calculating such reserves, the
12 commissioner may use group methods and approximate averages for fractions
13 of a year or otherwise. In lieu of the valuation of the reserves required of any
14 foreign or alien insurer, the commissioner may accept any valuation made, or
15 caused to be made, by the insurance supervisory official of any state or other
16 jurisdiction when such valuation complies with the minimum standard{
17 herein} provided in KRS 304.6-130 to 304.6-180 and if the official of such
18 state or jurisdiction accepts as sufficient and valid for all legal purposes the
19 certificate of valuation of the commissioner when such certificate states the
20 valuation to have been made in a specified manner according to which the
21 aggregate reserves would be at least as large as if they had been computed in
22 the manner prescribed by law of that state or jurisdiction. Where any such
23 valuation is made by the commissioner, the commissioner may use the actuary
24 of the department or employ an actuary for the purpose, and the reasonable
25 compensation and expenses of the actuary, at a rate approved by the
26 commissioner, upon demand by the commissioner supported by an itemized
27 statement of such compensation and expenses, shall be paid by the insurer.

1 When a domestic insurer furnishes the commissioner with a valuation of its
 2 outstanding policies as computed by its own actuary or by an actuary deemed
 3 satisfactory for the purpose by the commissioner, the valuation shall be
 4 verified by the actuary of the department without cost to the insurer.

5 ~~(b)~~⁽²⁾ Any such insurer which at any time shall have adopted any standard of
 6 valuation producing greater aggregate reserves than those calculated according
 7 to the minimum standard herein provided may, with the approval of the
 8 commissioner, adopt any lower standard of valuation, but not lower than the
 9 minimum herein provided.

10 (c) The provisions of Sections 4, 11, 12, and 13 of this Act, and KRS 304.6-140,
 11 304.6-145, 304.6-155, 304.6-170, 304.6-180, and 304.15-410 shall apply to
 12 all policies and contracts as appropriate, issued on or after June 18, 1970,
 13 and prior to the operative date of the valuation manual. The provisions of
 14 Sections 5 and 6 of this Act shall not apply to the policies and contracts
 15 issued on or after June 18, 1970, and prior to the operative date of the
 16 valuation manual.

17 (2) (a) Except for a company that is exempt under Section 9 of this Act, for policies
 18 and contracts issued on or after the operative date of the valuation manual,
 19 the commissioner shall annually value or cause to be valued the reserve
 20 liabilities, hereinafter called reserves, for all outstanding life insurance
 21 contracts, annuity and pure endowment contracts, accident and health
 22 contracts, and deposit-type contracts of every company issued on or after the
 23 operative date of the valuation manual. In lieu of the valuation of the
 24 reserves required of a foreign or alien company, the commissioner may
 25 accept a valuation made, or caused to be made, by the insurance
 26 supervisory official of any state or other jurisdiction when the valuation
 27 complies with the minimum standard provided in KRS 304.6-130 to 304.6-

1 180.

2 (b) Except for a company that is exempt under Section 9 of this Act, Sections 5
 3 and 6 of this Act shall apply to all policies and contracts issued on or after
 4 the operative date of the valuation manual.

5 ➔Section 11. KRS 304.6-150 is amended to read as follows:

6 (1) Except as otherwise provided in KRS 304.6-155, ~~and~~ 304.6-180, and Section 4 of
 7 this Act, reserves according to the commissioners reserve valuation method, for the
 8 life insurance and endowment benefits of policies providing for a uniform amount
 9 of insurance and requiring the payment of uniform premiums shall be the excess, if
 10 any, of the present value, at the date of valuation, of such future guaranteed benefits
 11 provided for by such policies, over the then present value of any future modified net
 12 premiums therefor. The modified net premiums for any such policy shall be such
 13 uniform percentage of the respective contract premiums for such benefits that the
 14 present value, at the date of issue of the policy, of all such modified net premiums
 15 shall be equal to the sum of the then present value of such benefits provided for by
 16 the policy and the excess of (a) over (b), as follows:

17 (a) Net level annual premium. A net level annual premium equal to the present
 18 value, at the date of issue, of such benefits provided for after the first policy
 19 year, divided by the present value, at the date of issue, of an annuity of one (1)
 20 per annum payable on the first and each subsequent anniversary of such policy
 21 on which a premium falls due. Such net level annual premium shall not
 22 exceed the net level annual premium on the nineteen (19) year premium whole
 23 life plan for insurance of the same amount at an age one (1) year higher than
 24 the age at issue of such policy.

25 (b) Net one (1) year term premium. A net one (1) year term premium for such
 26 benefits provided for in the first policy year.

27 Provided that for any life insurance policy issued on or after January 1, 1986, for

1 which the contract premium in the first policy year exceeds that of the second year
2 and for which no comparable additional benefit is provided in the first year for such
3 excess and which provides an endowment benefit or a cash surrender value or a
4 combination thereof in an amount greater than such excess premium, the reserve
5 according to the commissioners reserve valuation method as of any policy
6 anniversary occurring on or before the assumed ending date defined herein as the
7 first policy anniversary on which the sum of any endowment benefit and any cash
8 surrender value then available is greater than such excess premium shall, except as
9 otherwise provided in KRS 304.6-180, be the greater of the reserve as of such
10 policy anniversary calculated as described in the preceding subsection and the
11 reserve as of such policy anniversary calculated as described in that subsection, but
12 with the value defined in paragraph (a) of that subsection being reduced by fifteen
13 percent (15%) of the amount of such excess first year premium, all present values of
14 benefits and premiums being determined without reference to premiums or benefits
15 provided for by the policy after the assumed ending date, the policy being assumed
16 to mature on such date as an endowment, and the cash surrender value provided on
17 such date being considered as an endowment benefit. In making the above
18 comparison the mortality and interest bases stated in KRS 304.6-140 and 304.6-145
19 shall be used.

20 (2) Reserves according to the commissioners reserve valuation method for:

21 (a) Life insurance policies providing for a varying amount of insurance or
22 requiring the payment of varying premiums,

23 (b) Group annuity and pure endowment contracts purchased under a retirement
24 plan or plan of deferred compensation, established or maintained by an
25 employer (including a partnership or sole proprietorship) or by an employee
26 organization, or by both, other than a plan providing individual retirement
27 accounts or individual retirement annuities under Section 408 of the Internal

1 Revenue Code, as now or hereafter amended,

2 (c) Disability and accidental death benefits in all policies and contracts, and

3 (d) All other benefits, except life insurance and endowment benefits in life
4 insurance policies and benefits provided by all other annuity and pure
5 endowment contracts, shall be calculated by a method consistent with the
6 provisions of this section, except that any extra premiums charged because of
7 impairments or special hazards shall be disregarded in the determination of
8 modified net premiums.

9 →Section 12. KRS 304.6-160 is amended to read as follows:

10 (1) In no event shall an insurer's aggregate reserves for all life insurance policies,
11 excluding disability and accidental death benefits, which are subject to subsection
12 (2) of KRS 304.6-140, be less than the aggregate reserves calculated in accordance
13 with the methods set forth in KRS 304.6-150, 304.6-155, 304.6-180 and 304.15-
14 410, and the mortality table or tables and rate or rates of interest used in calculating
15 nonforfeiture benefits for such policies.

16 (2) In no event shall the aggregate reserves for all policies, contracts, and benefits be
17 less than the aggregate reserves determined by the appointed~~qualified~~ actuary to
18 be necessary to render the opinion required by KRS 304.6-171.

19 →Section 13. KRS 304.6-170 is amended to read as follows:

20 (1) Reserves for any category of policies, contracts, or benefits as established by the
21 commissioner, which are subject to subsection (2) of KRS 304.6-140, may be
22 calculated, at the option of the insurer, according to any standards which produce
23 greater aggregate reserves for such category than those calculated according to the
24 minimum standard herein provided, but the rate or rates of interest used for policies
25 and contracts, other than annuity and pure endowment contracts, shall not be
26 greater~~higher~~ than the corresponding rate or rates of interest used in calculating
27 any nonforfeiture benefits provided for therein.

1 (2) Any such company which at any time shall have adopted any standard of valuation
 2 producing greater aggregate reserves than those calculated according to the
 3 minimum standard herein provided may, with the approval of the commissioner,
 4 adopt any lower standard of valuation, but not lower than the minimum **required by**
 5 **this subtitle, except**~~herein provided; provided, however,~~ that for the purposes of
 6 this section, the holding of additional reserves previously determined by **the**
 7 **appointed**~~a qualified~~ actuary to be necessary to render the opinion requested by
 8 KRS 304.6-171 shall not be deemed to be the adoption of a higher standard of
 9 valuation.

10 →Section 14. KRS 304.6-171 is amended to read as follows:

11 (1) **Subsections (2) to (5) of** this section shall become operative at the end of the first
 12 full calendar year following the year of enactment **and shall be applicable prior to**
 13 **the operative date of the valuation manual.**

14 (2) Every life insurance company doing business in this state shall annually submit the
 15 opinion of a qualified actuary as to whether the reserves and related actuarial items
 16 held in support of the policies and contracts specified by the commissioner by
 17 administrative regulation are computed appropriately, are based on assumptions
 18 which satisfy contractual provisions, are consistent with prior reported amounts, and
 19 comply with applicable laws of this state. The commissioner by administrative
 20 regulation shall define the specifics of this opinion and add any other items deemed
 21 to be necessary to its scope.

22 (3) (a) Every life insurance company, except as exempted by or pursuant to
 23 administrative regulation, shall also annually include in the opinion required
 24 by subsection (2) of this section, an opinion of the same qualified actuary as to
 25 whether the reserves and related actuarial items held in support of the policies
 26 and contracts specified by the commissioner by administrative regulation,
 27 when considered in light of the assets held by the company with respect to the

1 reserves and related actuarial items, including but not limited to the
2 investment earnings on the assets and the considerations anticipated to be
3 received and retained under the policies and contracts, make adequate
4 provision for the company's obligations under the policies and contracts,
5 including but not limited to the benefits under and expenses associated with
6 the policies and contracts.

7 (b) The commissioner may provide by administrative regulation for a transition
8 period for establishing any higher reserves which the qualified actuary may
9 deem necessary in order to render the opinion required by this section.

10 (4) Each opinion required by subsection (2) of this section shall be governed by the
11 following provisions:

12 (a) A memorandum, in form and substance acceptable to the commissioner as
13 specified by administrative regulation, shall be prepared to support each
14 actuarial opinion; and

15 (b) If the insurance company fails to provide a supporting memorandum at the
16 request of the commissioner within a period specified by administrative
17 regulation or the commissioner determines that the supporting memorandum
18 provided by the insurance company fails to meet the standards prescribed by
19 the administrative regulations or is otherwise unacceptable to the
20 commissioner, the commissioner may engage a qualified actuary at the
21 expense of the company to review the opinion and the basis for the opinion
22 and prepare the supporting memorandum as is required by the commissioner.

23 (5) Every opinion shall be governed by the following provisions:

24 (a) The opinion shall be submitted with the annual statement reflecting the
25 valuation of reserve liabilities for each year ending on or after December 31,
26 1996;

27 (b) The opinion shall apply to business in force including individual and group

- 1 health insurance plans, in form and substance acceptable to the commissioner
2 as specified by administrative regulation;
- 3 (c) The opinion shall be based on standards adopted from time to time by the
4 Actuarial Standards Board and on such additional standards as the
5 commissioner may by administrative regulation prescribe;
- 6 (d) In the case of an opinion required to be submitted by a foreign or alien
7 company, the commissioner may accept the opinion filed by that company
8 with the insurance supervisory official of another state if the commissioner
9 determines that the opinion reasonably meets the requirements applicable to a
10 company domiciled in this state;
- 11 (e) For the purposes of this section, "qualified actuary" means a member in good
12 standing of the American Academy of Actuaries who meets the requirements
13 set forth in administrative regulations;
- 14 (f) Except in cases of fraud or willful misconduct, the qualified actuary shall not
15 be liable for damages to any person, other than the insurance company and the
16 commissioner, for any act, error, omission, decision, or conduct with respect
17 to the actuary's opinion;
- 18 (g) Disciplinary action by the commissioner against the company or the qualified
19 actuary shall be defined in administrative regulations by the commissioner;
20 and
- 21 (h) Any memorandum in support of the opinion, and any other material provided
22 by the company to the commissioner in connection therewith, shall be kept
23 confidential by the commissioner and shall not be made public and shall not
24 be subject to subpoena, other than for the purpose of defending an action
25 seeking damages from any person by reason of any action required by this
26 section or by administrative regulations promulgated hereunder. The
27 memorandum or other material may otherwise be released by the

1 commissioner with the written consent of the company or to the American
2 Academy of Actuaries upon request stating that the memorandum or other
3 material is required for the purpose of professional disciplinary proceedings
4 and setting forth procedures satisfactory to the commissioner for preserving
5 the confidentiality of the memorandum or other material. Once any portion of
6 the confidential memorandum is cited by the company in its marketing, or is
7 cited before any governmental agency other than a state insurance department
8 or office, or is released by the company to the news media, all portions of the
9 confidential memorandum shall be no longer confidential.

10 (6) Unless a company is exempt under Section 9 of this Act, subsections (7) to (10) of
11 this section shall become operative after the operative date of the valuation
12 manual.

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

21 (8) Every company with outstanding life insurance, accident and health insurance,
22 or deposit-type contracts in this state, subject to regulation by the commissioner,
23 except as exempted in the valuation manual, shall also annually include in the
24 opinion required by subsection (7) of this section an opinion of the same
25 appointed actuary stating whether the reserves and related actuarial items held in
26 support of the policies and contracts specified in the valuation manual, when
27 considered with respect to the assets held by the company, the reserves, and

1 related actuarial items, including but not limited to the investment earnings on
 2 the assets and the considerations anticipated to be received and retained under
 3 the policies and contracts, making adequate provision for the company's
 4 obligations under the policies and contracts, including but not limited to the
 5 benefits under, and expenses associated with, the policies and contracts.

6 (9) Each opinion required by subsection (8) of this section shall be governed by the
 7 following provisions:

8 (a) A memorandum, in the form and substance specified in the valuation
 9 manual, and acceptable to the commissioner, shall be prepared to support
 10 each actuarial opinion; and

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

19 (10) Every opinion required by subsections (7) and (8) of this section shall be
 20 governed by the following provisions:

21 (a) The opinion shall be in the form and contain the substance specified in the
 22 valuation manual and acceptable to the commissioner;

23 (b) The opinion shall be submitted with the annual statement reflecting the
 24 valuation of the reserve liability for each year ending on or after the
 25 operative date of the valuation manual;

26 (c) The opinion shall apply to all policies and contracts subject to subsection
 27 (8) of this section, plus other actuarial liabilities as may be specified in the

1 valuation manual;

2 (d) The opinion shall be based on standards adopted from time to time by the
3 Actuarial Standards Board or its successor, and on such additional
4 standards as may be prescribed in the valuation manual;

5 (e) In the case of an opinion required to be submitted by a foreign or alien
6 company, the commissioner may accept the opinion filed by that company
7 with the insurance supervisory official of another state if the commissioner
8 determines that the opinion reasonably meets the requirements applicable to
9 a company domiciled in this state;

10 (f) Except in cases of fraud or willful misconduct, the appointed actuary shall
11 not be liable for damages to any person, other than the insurance company
12 and the commissioner, for any act, error, omission, decision, or conduct
13 with respect to the appointed actuary's opinion; and

14 (g) Disciplinary action by the commissioner against the company or the
15 appointed actuary shall be established by administrative regulation,
16 promulgated by the commissioner.

17 ➔SECTION 15. A NEW SECTION OF KRS 304.15-310 TO 304.15-360 IS
18 CREATED TO READ AS FOLLOWS:

19 The term "operative date of the valuation manual" means January 1 of the first
20 calendar year that the valuation manual is operative, as defined in subsection (11) of
21 Section 3 of this Act.

22 ➔Section 16. KRS 304.15-342 is amended to read as follows:

23 (1) This section shall apply to all policies issued on or after the effective date of this
24 section as defined in subsection (11) of this section. Except as provided in
25 subsection (7) of this section, the adjusted premiums for any policy shall be
26 calculated on an annual basis and shall be such uniform percentage of the respective
27 premiums specified in the policy for each policy year, excluding amounts payable as

1 extra premiums to cover impairments or special hazards and also excluding any
2 uniform annual contract charge or policy fee specified in the policy in a statement of
3 the method to be used in calculating the cash surrender values and paid-up
4 nonforfeiture benefits, that the present value, at the date of issue of the policy, of all
5 adjusted premiums shall be equal to the sum of:

- 6 (a) The then present value of the future guaranteed benefits provided for by the
7 policy;
- 8 (b) One percent (1%) of either the amount of insurance, if the insurance is
9 uniform in amount, or the average amount of insurance at the beginning of
10 each of the first ten (10) policy years; and
- 11 (c) One hundred twenty-five percent (125%) of the nonforfeiture net level
12 premium as hereinafter defined.

13 Provided, however, that in applying the percentage specified in (c) above, no
14 nonforfeiture net level premium shall be deemed to exceed four percent (4%) of
15 either the amount of insurance, if the insurance is uniform in amount, or the average
16 amount of insurance at the beginning of each of the first ten (10) policy years. This
17 date of issue of a policy for the purpose of this section shall be the date as of which
18 the rated age of the insured is determined.

- 19 (2) The nonforfeiture net level premium shall be equal to the present value, at the date
20 of issue of the policy, of the guaranteed benefits provided for by the policy divided
21 by the present value, at the date of issue of the policy, of an annuity of one (1) per
22 annum payable on the date of issue of the policy and on each anniversary of such
23 policy on which a premium falls due.
- 24 (3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled
25 changes in benefits or premiums, or which provide an option for changes in benefits
26 or premiums other than a change to a new policy, the adjusted premiums and
27 present values shall initially be calculated on the assumption that future benefits and

1 premiums do not change from those stipulated at the date of issue of the policy. At
2 the time of any such change in the benefits or premiums the future adjusted
3 premiums, nonforfeiture net level premiums and present values shall be recalculated
4 on the assumption that future benefits and premiums do not change from those
5 stipulated by the policy immediately after the change.

6 (4) Except as otherwise provided in subsection (7) of this section, the recalculated
7 future adjusted premiums for any such policy shall be such uniform percentage of
8 the respective future premiums specified in the policy for each policy year,
9 excluding amounts payable as extra premiums to cover impairments and special
10 hazards, and also excluding any uniform annual contract charge or policy fee
11 specified in the policy in a statement of the method to be used in calculating the
12 cash surrender values and paid-up nonforfeiture benefits, that the present value, at
13 the time of change to the newly defined benefits or premiums, of all such future
14 adjusted premiums shall be equal to the excess of (a) the sum of the then present
15 value of the then future guaranteed benefits provided for by the policy and the
16 additional expense allowance, if any, over (b) the then cash surrender value, if any,
17 or present value of any paid-up nonforfeiture benefit under the policy.

18 (5) The additional expense allowance, at the time of the change to the newly defined
19 benefits or premiums, shall be the sum of:

20 (a) One percent (1%) of the excess, if positive, of the average amount of
21 insurance at the beginning of each of the first ten (10) policy years subsequent
22 to the change over the average amount of insurance prior to the change at the
23 beginning of each of the first ten (10) policy years subsequent to the time of
24 the most recent previous change, or, if there has been no previous change, the
25 date of issue of the policy; and

26 (b) One hundred twenty-five percent (125%) of the increase, if positive, in the
27 nonforfeiture net level premium.

- 1 (6) The recalculated nonforfeiture net level premium shall be equal to the result
2 obtained by dividing (a) by (b) where:
- 3 (a) Equals the sum of:
- 4 1. The nonforfeiture net level premium applicable prior to the change times
5 the present value of an annuity of one (1) per annum payable on each
6 anniversary of the policy on or subsequent to the date of the change on
7 which a premium would have fallen due had the change not occurred,
8 and
- 9 2. The present value of the increase in future guaranteed benefits provided
10 for by the policy, and
- 11 (b) Equals the present value of an annuity of one (1) per annum payable on each
12 anniversary of the policy on or subsequent to the date of change on which a
13 premium falls due.
- 14 (7) Notwithstanding any other provisions of this section to the contrary, in the case of a
15 policy issued on a substandard basis which provides reduced graded amounts of
16 insurance so that, in each policy year, such policy has the same tabular mortality
17 cost as an otherwise similar policy issued on the standard basis which provides
18 higher uniform amounts of insurance, adjusted premiums and present values for
19 such substandard policy may be calculated as if it were issued to provide such
20 higher uniform amounts of insurance on the standard basis.
- 21 (8) All adjusted premiums and present values referred to in this section shall for all
22 policies of ordinary insurance be calculated on the basis of the commissioners 1980
23 standard ordinary mortality table or at the election of the insurer for any one (1) or
24 more specified plans of life insurance, the commissioners 1980 standard ordinary
25 mortality table with ten-year select mortality factors; shall for all policies of
26 industrial insurance be calculated on the basis of the commissioners 1961 standard
27 industrial mortality table; and shall for all policies issued in a particular calendar

1 year be calculated on the basis of a rate of interest not exceeding the nonforfeiture
2 interest rate as defined in this section for policies issued in that calendar year.

3 Provided, however, that:

4 (a) At the option of the insurer, calculations for all policies issued in a particular
5 calendar year may be made on the basis of a rate of interest not exceeding the
6 nonforfeiture interest rate, as defined in this section, for policies issued in the
7 immediately preceding calendar year;

8 (b) Under any paid-up nonforfeiture benefit, including any paid-up dividend
9 additions, any cash surrender value available, whether or not required by KRS
10 304.15-310, shall be calculated on the basis of the mortality table and rate of
11 interest used in determining the amount of such paid-up nonforfeiture benefit
12 and paid-up dividend additions, if any;

13 (c) Any insurer may calculate the amount of any guaranteed paid-up nonforfeiture
14 benefit including any paid-up additions under the policy on the basis of an
15 interest rate no lower than that specified in the policy for calculating cash
16 surrender values;

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

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

26 (f) For policies issued prior to the operative date of the valuation manual, any
27 Commissioner's Standard~~Any~~ ordinary mortality tables, adopted after 1980

1 by the National Association of Insurance Commissioners, that are approved by
 2 regulation promulgated by the commissioner for use in determining the
 3 minimum nonforfeiture standard may be substituted for the commissioners
 4 1980 standard ordinary mortality table with or without ten-year select
 5 mortality factors or for the commissioners 1980 extended term insurance
 6 table;{and}

7 (g) For policies issued on or after the operative date of the valuation manual,
 8 the valuation manual shall provide the Commissioners' Standard mortality
 9 table for use in determining the minimum nonforfeiture standard that may
 10 be substituted for the Commissioners' 1980 Standard Ordinary Mortality
 11 Table, with or without Ten-Year Select Mortality Factors, or for the
 12 Commissioners' 1980 Extended Term Insurance Table. If the commissioner
 13 promulgates an administrative regulation adopting any Commissioners'
 14 Standard ordinary mortality table, adopted by the NAIC, for use in
 15 determining the minimum nonforfeiture standard for policies issued on or
 16 after the operative date of the valuation manual, then that minimum
 17 nonforfeiture standard supersedes the minimum nonforfeiture standard
 18 provided by the valuation manual;

19 (h) For policies issued prior to the operative date of the valuation manual, any
 20 Commissioners' Standard{Any} industrial mortality tables, adopted after
 21 1980 by the National Association of Insurance Commissioners, that are
 22 approved by regulation promulgated by the commissioner for use in
 23 determining the minimum nonforfeiture standard may be substituted for the
 24 commissioners 1961 standard industrial mortality table or the commissioners
 25 1961 industrial extended term insurance table; and

26 (i) For policies issued on or after the operative date of the valuation manual,
 27 the valuation manual shall provide the Commissioners' Standard mortality

1 table for use in determining the minimum nonforfeiture standard that may
 2 be substituted for the Commissioners' 1961 Standard Industrial Mortality
 3 Table or the Commissioners' 1961 Industrial Extended Term Insurance
 4 Table. If the commissioner promulgates an administrative regulation
 5 adopting the Commissioners' Standard industrial mortality table as adopted
 6 by the NAIC, for use in determining the minimum nonforfeiture standard
 7 for policies issued on or after the operative date of the valuation manual,
 8 then that minimum nonforfeiture standard supersedes the minimum
 9 nonforfeiture standard provided by the valuation manual.

10 (9) (a) For policies issued prior to the operative date of the valuation manual, the
 11 nonforfeiture interest rate per annum for any policy issued in a particular
 12 calendar year shall be equal to one hundred twenty-five percent (125%) of the
 13 calendar year statutory valuation interest rate for such policy as defined in
 14 KRS 304.6-130 to 304.6-180, inclusive to the nearer one quarter of one
 15 percent (0.25%), except that the nonforfeiture interest rate shall not be less
 16 than four percent (4%).

17 (b) For policies issued on or after the operative date of the valuation manual,
 18 the nonforfeiture interest rate per annum for any policy issued in a
 19 particular calendar year shall be provided by the valuation manual.

20 (10) Notwithstanding any other provision in this code to the contrary, any refiling of
 21 nonforfeiture values or their methods of computation for any previously approved
 22 policy form which involves only a change in the interest rate or mortality table used
 23 to compute nonforfeiture values shall not require refiling of any other provisions of
 24 that policy form.

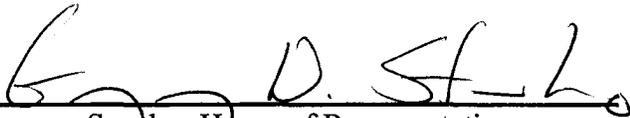
25 (11) Any insurer may file with the commissioner a written notice of its election to
 26 comply with the provisions of this section after a specified date before January 1,
 27 1989, which shall be the effective date of this section for such insurer. If an insurer

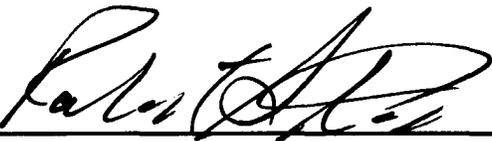
1 makes no such election, the effective date of this section for such insurer shall be
2 January 1, 1989.

3 → Section 17. KRS 160.310 is amended to read as follows:

4 **(1)** Each board of education may set aside funds to provide for liability and indemnity
5 insurance against the negligence of the drivers or operators of school buses, other
6 motor vehicles, and mobile equipment owned or operated by the board. If the
7 transportation of pupils is let out under contract, the contract shall require the
8 contractor to carry indemnity or liability insurance against negligence in such
9 amount as the board designates. In either case, the indemnity bond or insurance
10 policy shall be issued by some surety or insurance company authorized to transact
11 business in this state, and shall bind the company to pay any final judgment, not to
12 exceed the limits of the policy, rendered against the insured for loss or damage to
13 property of any school child or death or injury of any school child or other
14 person;**and**

15 **(2) Each board of education may set aside funds to provide for basic reparation**
16 **benefits and purchase such limits as the board of education shall direct, but shall**
17 **only be required to purchase such basic reparation benefits as defined in KRS**
18 **304.39-020 and as provided in KRS 304.39-010 to 304.39-080.**


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 3/23/15