

CHAPTER 221  
HB 640 – FINAL VERSION

13Mar2013... 0656h  
05/23/13...1491s  
5June2013... 2096EBA

2013 SESSION

13-0344  
01/10

HOUSE BILL           **640**

AN ACT               relative to the standard valuation law.

SPONSORS:         Rep. Schlachman, Rock 18; Rep. John Hunt, Ches 11

COMMITTEE:       Commerce and Consumer Affairs

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ANALYSIS

This bill updates the standard valuation law as necessary for accreditation from the National Association of Insurance Commissioners (NAIC).

This bill is a request of the insurance department.

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Explanation:       Matter added to current law appears in ***bold italics***.  
                      Matter removed from current law appears [~~in brackets and struck through~~].  
                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to the standard valuation law.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           221:1 Standard Valuation Law. RSA 410 is repealed and reenacted to read as follows:

2           410:1 Short Title. This chapter shall be known as the Standard Valuation Law.

3           410:2 Definitions. In this chapter:

4           I. “Accident and health insurance” means contracts that incorporate morbidity risk and  
5 provide protection against economic loss resulting from accident, sickness, or medical conditions and  
6 as may be specified in the valuation manual.

7           II. “Appointed actuary” means a qualified actuary who is appointed in accordance with the  
8 valuation manual to prepare the actuarial opinion required in RSA 410:4, I.

9           III. “Company” means an entity which:

10           (a) Has written, issued, or reinsured life insurance contracts, accident and health  
11 insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or  
12 on claim; or

13           (b) Has written, issued, or reinsured life insurance contracts, accident and health  
14 insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of  
15 authority to write life insurance, accident and health insurance, or deposit-type contracts in this  
16 state.

17           IV. “Commissioner” means the insurance commissioner.

18           V. “Deposit-type contract” means contracts that do not incorporate mortality or morbidity  
19 risks and as may be specified in the valuation manual.

20           VI. “Life insurance” means contracts that incorporate mortality risk, including annuity and  
21 pure endowment contracts, and as may be specified in the valuation manual.

22           VII. “NAIC” means the National Association of Insurance Commissioners.

23           VIII. “Policyholder behavior” means any action a policyholder, contract holder or any other  
24 person with the right to elect options, such as a certificate holder, may take under a policy or  
25 contract subject to this chapter including, but not limited to, lapse, withdrawal, transfer, deposit,  
26 premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but

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1 excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects  
2 by the terms of the policy or contract.

3 IX. “Principle-based valuation” means a reserve valuation that uses one or more methods or  
4 one or more assumptions determined by the insurer and is required to comply with RSA 410:16 as  
5 specified in the valuation manual.

6 X. “Qualified actuary” means an individual who is qualified to sign the applicable statement  
7 of actuarial opinion in accordance with the American Academy of Actuaries qualification standards  
8 for actuaries signing such statements and who meets the requirements specified in the valuation  
9 manual.

10 XI. “Tail risk” means a risk that occurs either where the frequency of low probability events  
11 is higher than expected under a normal probability distribution or where there are observed events  
12 of very significant size or magnitude.

13 XII. “Valuation manual” means the manual of valuation instructions adopted by the NAIC  
14 as specified in this chapter or as subsequently amended.

15 410:3 Reserve Valuation.

16 I. Policies and Contracts Issued Prior to the Operative Date of the Valuation Manual.

17 (a) The insurance commissioner shall annually value, or cause to be valued, the reserve  
18 liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and  
19 pure endowment contracts of every life insurance company doing business in this state, except that  
20 in the case of an alien company, such valuation shall be limited to its United States business, issued  
21 on or after April 7, 1943 and prior to the operative date of the valuation manual. In calculating  
22 reserves, the commissioner may use group methods and approximate averages for fractions of a year  
23 or otherwise. In lieu of the valuation of the reserves required of a foreign or alien company, the  
24 commissioner may accept any valuation made, or caused to be made, by the insurance supervisory  
25 official of any state or other jurisdiction when the valuation complies with the minimum standard  
26 provided in this chapter.

27 (b) The provisions set forth in RSA 410:5 through RSA 410:14 of this chapter shall apply  
28 to all policies and contracts, as appropriate, subject to this chapter issued on or after April 7, 1943  
29 and prior to the operative date of the valuation manual and the provisions set forth in RSA 410:15  
30 and RSA 410:16 of this chapter shall not apply to any such policies and contracts.

31 (c) The minimum standard for the valuation of policies and contracts issued prior to  
32 April 7, 1943 shall be that provided by the laws in effect immediately prior to that date.

33 II. Policies and Contracts Issued On or After the Operative Date of the Valuation Manual.

34 (a) The commissioner shall annually value, or cause to be valued, the reserve liabilities  
35 (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure  
36 endowment contracts, accident and health contracts, and deposit-type contracts of every company

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1 issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves  
2 required of a foreign or alien company, the commissioner may accept a valuation made, or caused to  
3 be made, by the insurance supervisory official of any state or other jurisdiction when the valuation  
4 complies with the minimum standard provided in this chapter.

5 (b) The provisions set forth in RSA 410:15 and RSA 410:16 of this chapter shall apply to  
6 all policies and contracts issued on or after the operative date of the valuation manual.

7 410:4 Actuarial Opinion of Reserves.

8 I. Actuarial Opinion Prior to Operative Date of the Valuation Manual.

9 (a) General. Every life insurance company doing business in this state shall annually  
10 submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held  
11 in support of the policies and contracts specified by the commissioner by rule are computed  
12 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior  
13 reported amounts, and comply with applicable laws of this state. The commissioner shall define by  
14 rule the specifics of this opinion and add any other items deemed to be necessary to its scope.

15 (b) Actuarial Analysis of Reserves and Assets Supporting Reserves.

16 (1) Every life insurance company, except as exempted by rule, shall also annually  
17 include in the opinion required by paragraph I, an opinion of the same qualified actuary as to  
18 whether the reserves and related actuarial items held in support of the policies and contracts  
19 specified by the commissioner by rule, when considered in light of the assets held by the company  
20 with respect to the reserves and related actuarial items, including but not limited to the investment  
21 earnings on the assets and the considerations anticipated to be received and retained under the  
22 policies and contracts, make adequate provision for the company's obligations under the policies and  
23 contracts, including but not limited to the benefits under and expenses associated with the policies  
24 and contracts.

25 (2) The commissioner may provide by rule for a transition period for establishing any  
26 higher reserves that the qualified actuary may deem necessary in order to render the opinion  
27 required by this section.

28 (c) Requirement for Opinion Under Paragraph II. Each opinion required by paragraph  
29 II shall be governed by the following provisions:

30 (1) A memorandum, in form and substance acceptable to the commissioner as  
31 specified by rule, shall be prepared to support each actuarial opinion.

32 (2) If the insurance company fails to provide a supporting memorandum at the  
33 request of the commissioner within a period specified by rule or the commissioner determines that  
34 the supporting memorandum provided by the insurance company fails to meet the standards  
35 prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may

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1 engage a qualified actuary at the expense of the company to review the opinion and the basis for the  
2 opinion and prepare such supporting memorandum as is required by the commissioner.

3 (d) Requirement for All Opinions Subject to RSA 410:4, I. Every opinion required by  
4 RSA 410:4, I shall be governed by the following provisions:

5 (1) The opinion shall be submitted with the annual statement reflecting the  
6 valuation of such reserve liabilities for each year ending on or after December 31, 1996.

7 (2) The opinion shall apply to all business in force including individual and group  
8 health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

9 (3) The opinion shall be based on standards adopted from time to time by the  
10 Actuarial Standards Board and on such additional standards as the commissioner may by rule  
11 prescribe.

12 (4) In the case of an opinion required to be submitted by a foreign or alien company,  
13 the commissioner may accept the opinion filed by that company with the insurance supervisory  
14 official of another state if the commissioner determines that the opinion reasonably meets the  
15 requirements applicable to a company domiciled in this state.

16 (5) For the purposes of this section, “qualified actuary” means a member in good  
17 standing of the American Academy of Actuaries who meets the requirements set forth in the  
18 regulation.

19 (6) Except in cases of fraud or willful misconduct, the qualified actuary shall not be  
20 liable for damages to any person, other than the insurance company and the commissioner, for any  
21 act, error, omission, decision or conduct with respect to the actuary’s opinion.

22 (7) Disciplinary action by the commissioner against the company or the qualified  
23 actuary shall be defined in rules by the commissioner.

24 (8) Except as provided in subparagraphs (12), (13) and (14), documents, materials or  
25 other information in the possession or control of the insurance department that are a memorandum  
26 in support of the opinion, and any other material provided by the company to the commissioner in  
27 connection with the memorandum, shall be kept confidential by law and privileged, shall not be  
28 subject to RSA 91-A, shall not be subject to subpoena, and shall not be subject to discovery or  
29 admissible in evidence in any private civil action. However, the commissioner is authorized to use  
30 the documents, materials or other information in the furtherance of any regulatory or legal action  
31 brought as a part of the commissioner’s official duties.

32 (9) Neither the commissioner nor any person who received documents, materials or  
33 other information while acting under the authority of the commissioner shall be permitted or  
34 required to testify in any private civil action concerning any confidential documents, materials or  
35 information subject to subparagraph (8).

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1                   (10) In order to assist in the performance of the commissioner's duties, the  
2 commissioner:

3                   (A) May share documents, materials or other information, including the  
4 confidential and privileged documents, materials or information subject to paragraph (8) with other  
5 state, federal and international regulatory agencies, with the National Association of Insurance  
6 Commissioners and its affiliates and subsidiaries, and with state, federal and international law  
7 enforcement authorities, provided that the recipient agrees to maintain the confidentiality and  
8 privileged status of the document, material or other information;

9                   (B) May receive documents, materials or information, including otherwise  
10 confidential and privileged documents, materials or information, from the National Association of  
11 Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law  
12 enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or  
13 privileged any document, material or information received with notice or the understanding that it is  
14 confidential or privileged under the laws of the jurisdiction that is the source of the document,  
15 material or information; and

16                   (C) May enter into agreements governing sharing and use of information  
17 consistent with subparagraphs (8) to (10).

18                   (11) No waiver of any applicable privilege or claim of confidentiality in the  
19 documents, materials or information shall occur as a result of disclosure to the commissioner under  
20 this section or as a result of sharing as authorized in subparagraph (10).

21                   (12) A memorandum in support of the opinion, and any other material provided by  
22 the company to the commissioner in connection with the memorandum, may be subject to subpoena  
23 for the purpose of defending an action seeking damages from the actuary submitting the  
24 memorandum by reason of an action required by this section or by rules adopted pursuant to this  
25 section.

26                   (13) The memorandum or other material may otherwise be released by the  
27 commissioner with the written consent of the company or to the American Academy of Actuaries  
28 upon request stating that the memorandum or other material is required for the purpose of  
29 professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner  
30 for preserving the confidentiality of the memorandum or other material.

31                   (14) Once any portion of the confidential memorandum is cited by the company in its  
32 marketing or is cited before a governmental agency other than a state insurance department or is  
33 released by the company to the news media, all portions of the confidential memorandum shall be no  
34 longer confidential.

35                   II. Actuarial Opinion of Reserves after the Operative Date of the Valuation Manual.

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1           (a) General. Every company with outstanding life insurance contracts, accident and  
2 health insurance contracts or deposit-type contracts in this state and subject to regulation by the  
3 commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves  
4 and related actuarial items held in support of the policies and contracts are computed appropriately,  
5 are based on assumptions that satisfy contractual provisions, are consistent with prior reported  
6 amounts and comply with applicable laws of this state. The valuation manual will prescribe the  
7 specifics of this opinion including any items deemed to be necessary to its scope.

8           (b) Actuarial Analysis of Reserves and Assets Supporting Reserves. Every company  
9 with outstanding life insurance contracts, accident and health insurance contracts or deposit-type  
10 contracts in this state and subject to regulation by the commissioner, except as exempted in the  
11 valuation manual, shall also annually include in the opinion required by subparagraph (a), an  
12 opinion of the same appointed actuary as to whether the reserves and related actuarial items held in  
13 support of the policies and contracts specified in the valuation manual, when considered in light of  
14 the assets held by the company with respect to the services and related actuarial items, including,  
15 but not limited to, the investment earnings on the assets and the considerations anticipated to be  
16 received and retained under the policies and contracts, make adequate provision for the company's  
17 obligations under the policies and contracts, including but not limited to the benefits under and  
18 expenses associated with the policies and contracts.

19           (c) Requirements for Opinions Subject to RSA 410:4, II(b). Each opinion required by  
20 paragraph II shall be governed by the following provisions:

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

23                 (2) If the insurance company fails to provide a supporting memorandum at the  
24 request of the commissioner within a period specified in the valuation manual or the commissioner  
25 determines that the supporting memorandum provided by the insurance company fails to meet the  
26 standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the  
27 commissioner may engage a qualified actuary at the expense of the company to review the opinion  
28 and the basis for the opinion and prepare the supporting memorandum required by the  
29 commissioner.

30           (d) Requirement for All Opinions Subject to RSA 410:4, II. Every opinion shall be  
31 governed by the following provisions:

32                 (1) The opinion shall be in form and substance as specified in the valuation manual  
33 and acceptable to the commissioner.

34                 (2) The opinion shall be submitted with the annual statement reflecting the  
35 valuation of such reserve liabilities for each year ending on or after the operative date of the  
36 valuation manual.

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1                   (3) The opinion shall apply to all policies and contracts subject to RSA 410:4, II(b),  
2 plus other actuarial liabilities as may be specified in the valuation manual.

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

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

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

13                  (7) Disciplinary action by the commissioner against the company or the appointed  
14 actuary shall be defined in rules by the commissioner.

15                  410:5 Computation of Minimum Standards. Except as provided in paragraphs I and II and  
16 RSA 410:14, the minimum standard for the valuation of policies and contracts issued prior to April 7,  
17 1943, except group annuity and pure endowment contracts, shall be that provided by the laws in  
18 effect immediately prior to that date. Except as provided in RSA 410:6 and RSA 410:7, the minimum  
19 standard for the valuation of group annuity and pure endowment contracts issued prior to April 7,  
20 1943, shall be that provided by the laws in effect immediately prior to such date except that the  
21 interest rate specified shall be 5 percent per annum for all such contracts. Except as otherwise  
22 provided in RSA 410:6, RSA 410:7, and RSA 410:14 the minimum standard for the valuation of all  
23 policies and contracts issued on or after April 7, 1943, shall be the commissioner's reserve valuation  
24 methods defined in RSA 410:8, RSA 410:9, RSA 410:12 and RSA 410:14, 5 percent interest for group  
25 annuity and pure endowment contracts and 3 ½ percent interest for all other such policies and  
26 contracts, or in the case of life insurance policies and contracts, other than annuity and pure  
27 endowment contracts, issued on or after September 1, 1943, 4 percent interest for policies issued  
28 prior to August 1, 1979, 5 ½ percent interest for single premium life insurance policies and 4 ½  
29 percent interest for all other policies issued on or after August 1, 1979 and the following tables:

30                  I. For all ordinary policies of life insurance issued on the standard basis, excluding any  
31 disability and accidental death benefits in such policies: the Commissioner's 1941 Standard  
32 Ordinary Mortality Table for policies issued prior to the operative date of RSA 409:5-a, I; the  
33 Commissioner's 1958 Standard Ordinary Mortality Table for such policies issued on or after the  
34 operative date of RSA 409:5-a, I, and prior to the operative date of RSA 409:5-b; provided that for  
35 any category of policies issued on female risks, all modified net premiums and present values  
36 referred to in this chapter may be calculated according to an age not more than 6 years younger than



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1 the actual age of the insured; and for policies issued on or after the operative date of RSA 409:5-b, of  
2 the Standard Nonforfeiture Law for Life Insurance as amended.

3 (a) The Commissioner's 1980 Standard Ordinary Mortality Table;

4 (b) At the election of the company for any one or more specified plans of life insurance,  
5 the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality  
6 Factors; or

7 (c) Any ordinary mortality table, adopted after 1980 by the National Association of  
8 Insurance Commissioners, which is approved by rule adopted by the commissioner pursuant to  
9 RSA 541-A for use in determining the minimum standard of valuation for such policies.

10 II. For all industrial life insurance policies issued on the standard basis, excluding any  
11 disability and accidental death benefits in the policies; the 1941 Standard Industrial Mortality Table  
12 for policies issued prior to the operative date of RSA 409:5-a, II, and for policies issued on or after the  
13 operative date, the Commissioner's 1961 Standard Industrial Mortality Table or any industrial  
14 mortality table adopted after 1980 by the National Association of Insurance Commissioners that is  
15 approved by rule adopted by the commissioner pursuant to RSA 541-A for use in determining the  
16 minimum standard of valuation for the policies.

17 III. For individual annuity and pure endowment contracts, excluding any disability and  
18 accidental death benefits in the policies the 1937 Standard Annuity Mortality Table or at the option  
19 of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of  
20 these tables approved by the commissioner.

21 IV. For group annuity and pure endowment contracts, excluding any disability and  
22 accidental death benefits in the policies: the Group Annuity Mortality Table for 1951, a modification  
23 of the table approved by the commissioner, or at the option of the company, any of the tables or  
24 modifications of tables specified for individual annuity and pure endowment contracts.

25 V. For total and permanent disability benefits in or supplementary to ordinary policies or  
26 contracts: for policies or contracts issued on or after January 1, 1966, the tables of Period 2  
27 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society  
28 of Actuaries, with due regard to the type of benefit or any tables of disablement rates and  
29 termination rates adopted after 1980 by the National Association of Insurance Commissioners, that  
30 are approved by rule adopted by the commissioner pursuant to RSA 541-A for use in determining the  
31 minimum standard of valuation for those policies; for policies or contracts issued on or after January  
32 1, 1961 and prior to January 1, 1966, either those tables or, at the option of the company, the Class  
33 (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability  
34 Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for  
35 calculating the reserves for life insurance policies.

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1 VI. For accidental death benefits in or supplementary to policies issued on or after January  
2 1, 1966: the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted  
3 after 1980 by the National Association of Insurance Commissioners that is approved by rule adopted  
4 by the commissioner pursuant to RSA 541-A for use in determining the minimum standard of  
5 valuation for those policies; for policies issued on or after January 1, 1961 and prior to January 1,  
6 1966, either that table or, at the option of the company, the Inter-Company Double Indemnity  
7 Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double  
8 Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for  
9 calculating the reserves for life insurance policies.

10 VII. For group life insurance, life insurance issued on the substandard basis and other  
11 special benefits; tables approved by the commissioner.

12 410:6 Computation of Minimum Standards for Annuities.

13 I. Except as provided in RSA 410:7, the minimum standard for the valuation for individual  
14 annuity and pure endowment contracts issued on or after the operative date of this section and for  
15 annuities and pure endowments purchased on or after the operative date under group annuity and  
16 pure endowment contracts, shall be the commissioner's reserve valuation methods defined in RSA  
17 410:8 and 410:9 and the following tables and interest rates:

18 (a) For individual annuity and pure endowment contracts issued prior to August 1, 1979,  
19 excluding any disability and accidental death benefits in those contracts: the 1971 Individual  
20 Annuity Mortality Table, or any modification of this table approved by the commissioner, and 6  
21 percent interest for single premium immediate annuity contracts and 4 percent interest for all other  
22 individual annuity and pure endowment contracts.

23 (b) For individual single premium immediate annuity contracts issued on or after  
24 August 1, 1979, excluding any disability and accidental death benefits in those contracts: the 1971  
25 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by  
26 the National Association of Insurance Commissioners, that is approved by rule adopted by the  
27 commissioner pursuant to RSA 541-A for use in determining the minimum standard of valuation for  
28 these contracts, or any modification of these tables approved by the commissioner, and 7 1/2 percent  
29 interest.

30 (c) For individual annuity and pure endowment contracts issued on or after August 1,  
31 1979, other than single premium immediate annuity contracts, excluding any disability and  
32 accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table or any  
33 individual annuity mortality table, adopted after 1980 by the National Association of Insurance  
34 Commissioners, that is approved by rule adopted by the commissioner pursuant to RSA 541-A for  
35 use in determining the minimum standard of valuation for these contracts, or any modification of  
36 these tables approved by the commissioner, and 5 1/2 percent interest for single premium deferred

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1 annuity and pure endowment contracts and 4 1/2 percent interest for all other individual annuity  
2 and pure endowment contracts.

3 (d) For all annuities and pure endowments purchased prior to August 1, 1979, under  
4 group annuity and pure endowment contracts, excluding any disability and accidental death benefits  
5 purchased under those contracts: the 1971 Group Annuity Mortality Table or any modification of  
6 this table approved by the commissioner, and 6 percent interest.

7 (e) For all annuities and pure endowments purchased on or after August 1, 1979, under  
8 group annuity and pure endowment contracts, excluding any disability and accidental death benefits  
9 purchased under those contracts: the 1971 Group Annuity Mortality Table, or any group annuity  
10 mortality table adopted after 1980 by the National Association of Insurance Commissioners, that is  
11 approved by rule adopted by the commissioner pursuant to RSA 541-A for use in determining the  
12 minimum standard of valuation for annuities and pure endowments, or any modification of these  
13 tables approved by the commissioner, and 7 1/2 percent interest.

14 II. After September 1, 1973, any company may file with the commissioner a written notice of  
15 its election to comply with the provisions of this section after a specified date before January 1, 1979,  
16 which shall be the operative date of this section for that company. If a company makes no election,  
17 the operative date of this section for that company shall be January 1, 1979.

18 410:7 Computation of Minimum Standard by Calendar Year of Issue.

19 I. The interest rates used in determining the minimum standard for the valuation of the  
20 following shall be the calendar year statutory valuation interest rates as defined in this section:

21 (a) Life insurance policies issued in a particular calendar year, on or after the operative  
22 date of RSA 409:5-b;

23 (b) Individual annuity and pure endowment contracts issued in a particular calendar  
24 year on or after January 1, 1982;

25 (c) Annuities and pure endowments purchased in a particular calendar year on or after  
26 January 1, 1982, under group annuity and pure endowment contracts; and

27 (d) The net increase, if any, in a particular calendar year after January 1, 1982, in  
28 amounts held under guaranteed interest contracts.

29 II. The calendar year statutory valuation interest rates shall be as follows:

30 (a) The calendar year statutory valuation interest rates, I, shall be determined as follows  
31 and the results rounded to the nearest 1/4 of one percent:

32 (1) For life insurance

33 
$$I = .03 + W (R1 - .03 + \frac{W}{R2 - .09});$$

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

4  $I = .03 + W (R - .03)$

5 Where  $R_1$  is the lesser of  $R$  and  $.09$ ,

6  $R_2$  is the greater of  $R$  and  $.09$ ,

7  $R$  is the reference interest rate defined in this section,

8  $W$  is the weighting factor defined in this section,

9                   (3) For other annuities with cash settlement options and guaranteed interest  
10 contracts with cash settlement options, valued on an issue year basis, except as stated in  
11 subparagraph (2), the formula for life insurance stated in subparagraph (1) shall apply to annuities  
12 and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for  
13 single premium immediate annuities stated in subparagraph (2) shall apply to annuities and  
14 guaranteed interest contracts with guarantee duration of 10 years or less,

15                   (4) For other annuities with no cash settlement options and for guaranteed interest  
16 contracts with no cash settlement options, the formula for single premium immediate annuities  
17 stated in subparagraph (2) shall apply,

18                   (5) For other annuities with cash settlement options and guaranteed interest  
19 contracts with cash settlement options, valued on a change in fund basis, the formula for single  
20 premium immediate annuities stated in subparagraph (2) shall apply.

21                   (b) However, if the calendar year statutory valuation interest rate for life insurance  
22 policies issued in any calendar year determined without reference to this subparagraph differs from  
23 the corresponding actual rate for similar policies issued in the immediately preceding calendar year  
24 by less than 1/2 of one percent, the calendar year statutory valuation interest rate for the life  
25 insurance policies shall be equal to the corresponding actual rate for the immediately preceding  
26 calendar year. For purposes of applying this subparagraph, the calendar year statutory valuation  
27 interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using  
28 the reference interest rate defined in 1979) and shall be determined for each subsequent calendar  
29 year regardless of when RSA 409:5-b becomes operative.

30                   III. The weighting factors referred to in the formulas in paragraph II are given in the  
31 following tables:

32                   (a) Weighting factors for life insurance:

33    Guarantee	Weighting
34    Duration	Factors
35    (Years)	
36    10 or less	.50

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1 More than 10, but not more than 20	.45
2 More than 20	.35

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

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

10 .80

11 (c) Weighting factors for other annuities and for guaranteed interest contracts, except as  
12 stated in subparagraph (b), shall be as specified in subparagraphs (c)(1), (2), and (3), according to the  
13 rules and definitions in subparagraphs (c)(4), (5) and (6):

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

15 Guarantee	16 Weighting Factor		
17 Duration	18 for Plan Type		
19 (Years)	A	B	C
20 5 or less:	.80	.60	.50
21 More than 5, but not more than 10:	.75	.60	.50
22 More than 10, but not more than 20:	.65	.50	.45
23 More than 20:	.45	.35	.35

24 (2) For annuities and guaranteed interest contracts valued on a change in fund  
25 basis, the factors shown in subparagraph (1) increased by:

	26 Plan Type		
	A	B	C
27	.15	.25	.05

28 (3) For annuities and guaranteed interest contracts valued on an issue year basis  
29 (other than those with no cash settlement options) that do not guarantee interest on considerations  
30 received more than one year after issue or purchase and for annuities and guaranteed interest  
31 contracts valued on a change in fund basis that do not guarantee interest rates on considerations  
32 received more than 12 months beyond the valuation date, the factors shown in subparagraph (1) or  
33 derived in subparagraph (2) increased by:

	34 Plan Type		
	A	B	C
35	.05	.05	.05

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

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

9           Plan type A: At any time policyholder may withdraw funds only (i) with an adjustment to reflect  
10 changes in interest rates or asset values since receipt of the funds by the insurance company, or (ii)  
11 without such adjustment but in installments over 5 years or more, or (iii) as an immediate life  
12 annuity, or (iv) no withdrawal permitted.

13           Plan type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds  
14 only (i) with adjustment to reflect changes in interest rates or asset values since receipt of the funds  
15 by the insurance company, or (ii) without an adjustment but in installments over 5 years or more, or  
16 (iii) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn  
17 without an adjustment in a single sum or installments over less than 5 years.

18           Plan type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a  
19 single sum or installments over less than 5 years either (i) without adjustment to reflect changes in  
20 interest rates or asset values since receipt of the funds by the insurance company, or (ii) subject only  
21 to a fixed surrender charge stipulated in the contract as a percentage of the fund.

22           (6) A company may elect to value guaranteed interest contracts with cash settlement  
23 options and annuities with cash settlement options on either an issue year basis or on a change in  
24 fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with  
25 no cash settlement options must be valued on an issue year basis. In this section, an issue year basis  
26 of valuation refers to a valuation basis under which the interest rate used to determine the  
27 minimum valuation standard for the entire duration of the annuity or guaranteed interest contract  
28 is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or  
29 guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis  
30 under which the interest rate used to determine the minimum valuation standard applicable to each  
31 change in the fund held under the annuity or guaranteed interest contract is the calendar year  
32 valuation interest rate for the year of the change in the fund.

33           IV. The reference interest rate referred to in paragraph II shall be defined as follows:

34           (a) For life insurance, the lesser of the average over a period of 36 months and the  
35 average over a period of 12 months, ending on June 30 of the calendar year preceding the year of

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1 issue, of the monthly average of the composite yield on seasoned corporate bonds as published by  
2 Moody's Investors Service, Inc.

3 (b) For single premium immediate annuities and for annuity benefits involving life  
4 contingencies arising from other annuities with cash settlement options and guaranteed interest  
5 contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of  
6 the calendar year of issue or year of purchase, of the monthly average of the composite yield on  
7 seasoned corporate bonds, as published by Moody's Investors Service, Inc.

8 (c) For other annuities with cash settlement options and guaranteed interest contracts  
9 with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (b),  
10 with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months  
11 and the average over a period of 12 months, ending on June 30 of the calendar year of issue or  
12 purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published  
13 by Moody's Investors Service, Inc.

14 (d) For other annuities with cash settlement options and guaranteed interest contracts  
15 with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (b),  
16 with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June  
17 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on  
18 seasoned corporate bonds, as published by Moody's Investors Service, Inc.

19 (e) For other annuities with no cash settlement options and for guaranteed interest  
20 contracts with no cash settlement options, the average over a period of 12 months, ending on June 30  
21 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned  
22 corporate bonds, as published by Moody's Investors Service, Inc.

23 (f) For other annuities with cash settlement options and guaranteed interest contracts  
24 with cash settlement options, valued on a change in fund basis, except as stated in subparagraph (b),  
25 the average over a period of 12 months, ending on June 30 of the calendar year of the change in the  
26 fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by  
27 Moody's Investors Service, Inc.

28 V. Alternative Method for Determining Reference Interest Rates. In the event that the  
29 monthly average of the composite yield on seasoned corporate bonds is no longer published by  
30 Moody's Investors Service, Inc., or in the event that the National Association of Insurance  
31 Commissioners determines that the monthly average of the composite yield on seasoned corporate  
32 bonds, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination  
33 of the reference interest rate, then an alternative method for determination of the reference interest  
34 rate, adopted by the National Association of Insurance Commissioners and approved by rule adopted  
35 by the commissioner may be substituted.

36 410:8 Reserve Valuation Method; Life Insurance and Endowment Benefits.

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1           I. Except as otherwise provided in RSA 410:9 and 410:12, reserves according to the  
2 commissioner's reserve valuation method, for the life insurance and endowment benefits of policies  
3 providing for a uniform amount of insurance and requiring the payment of uniform premiums shall  
4 be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits  
5 provided for by those policies, over the then present value of any future modified net premiums  
6 therefor. The modified net premiums for a policy shall be such uniform percentage of the respective  
7 contract premiums for such benefits such that the present value, at the date of issue of the policy, of  
8 all modified net premiums shall be equal to the sum of the then present value of the benefits  
9 provided for by the policy and the excess of subparagraph (a) over subparagraph (b), as follows:

10           (a) A net level annual premium equal to the present value, at the date of issue, of the  
11 benefits provided for after the first policy year, divided by the present value, at the date of issue, of  
12 an annuity of one percent per annum payable on the first and each subsequent anniversary of the  
13 policy on which a premium falls due. However, the net level annual premium shall not exceed the  
14 net level annual premium on the 19-year premium whole life plan for insurance of the same amount  
15 at an age one year higher than the age at issue of the policy.

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

17           II. For a life insurance policy issued on or after January 1, 1985, for which the contract  
18 premium in the first policy year exceeds that of the second year and for which no comparable  
19 additional benefit is provided in the first year for the excess and which provides an endowment  
20 benefit or a cash surrender value or a combination in an amount greater than the excess premium,  
21 the reserve according to the commissioner's reserve valuation method as of any policy anniversary  
22 occurring on or before the assumed ending date defined in this section as the first policy anniversary  
23 on which the sum of any endowment benefit and any cash surrender value then available is greater  
24 than the excess premium shall, except as otherwise provided in RSA 410:12, be the greater of the  
25 reserve as of the policy anniversary calculated as described in paragraph I and the reserve as of the  
26 policy anniversary calculated as described in paragraph I, but with (a) the value defined in  
27 subparagraph (a) of paragraph I being reduced by 15 percent of the amount of such excess first year  
28 premium, (b) all present values of benefits and premiums being determined without reference to  
29 premiums or benefits provided for by the policy after the assumed ending date, (c) the policy being  
30 assumed to mature on that date as an endowment, and (d) the cash surrender value provided on that  
31 date being considered as an endowment benefit. In making the above comparison the mortality and  
32 interest bases stated in RSA 410:6 and 410:7 shall be used.

33           III. Reserves according to the commissioner's reserve valuation method shall be calculated  
34 by a method consistent with the principles of the preceding paragraphs of this section for:

35           (a) Life insurance policies providing for a varying amount of insurance or requiring the  
36 payment of varying premiums;



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1 (b) Group annuity and pure endowment contracts purchased under a retirement plan or  
2 plan of deferred compensation, established or maintained by an employer (including a partnership or  
3 sole proprietorship) or by an employee organization, or by both, other than a plan providing  
4 individual retirement accounts or individual retirement annuities under section 408 of the Internal  
5 Revenue Code, as now or hereafter amended;

6 (c) Disability and accidental death benefits in all policies and contracts; and

7 (d) All other benefits, except life insurance and endowment benefits in life insurance  
8 policies and benefits provided by all other annuity and pure endowment contracts.

9 410:9 Reserve Valuation Method; Annuity and Pure Endowment Benefits.

10 I. This section shall apply to all annuity and pure endowment contracts other than group  
11 annuity and pure endowment contracts purchased under a retirement plan or plan of deferred  
12 compensation, established or maintained by an employer (including a partnership or sole  
13 proprietorship) or by an employee organization, or by both, other than a plan providing individual  
14 retirement accounts or individual retirement annuities under section 408 of the Internal Revenue  
15 Code, as now or hereafter amended.

16 II. Reserves according to the commissioner's annuity reserve method for benefits under  
17 annuity or pure endowment contracts, excluding any disability and accidental death benefits in the  
18 contracts, shall be the greatest of the respective excesses of the present values, at the date of  
19 valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided  
20 for by the contracts at the end of each respective contract year, over the present value, at the date of  
21 valuation, of any future valuation considerations derived from future gross considerations, required  
22 by the terms of the contract, that become payable prior to the end of the respective contract year.  
23 The future guaranteed benefits shall be determined by using the mortality table, if any, and the  
24 interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation  
25 considerations are the portions of the respective gross considerations applied under the terms of the  
26 contracts to determine nonforfeiture values.

27 410:10 Minimum Reserves.

28 I. In no event shall a company's aggregate reserves for all life insurance policies, excluding  
29 disability and accidental death benefits, issued on or after the effective date of this chapter, be less  
30 than the aggregate reserves calculated in accordance with the methods set forth in RSA 410:8,  
31 RSA 410:9, RSA 410:12 and RSA 410:13 and the mortality table or tables and rate or rates of  
32 interest used in calculating nonforfeiture benefits for the policies.

33 II. In no event shall the aggregate reserves for all policies, contracts, and benefits be less  
34 than the aggregate reserves determined by the appointed actuary to be necessary to render the  
35 opinion required by RSA 410:4.

36 410:11 Optional Reserve Calculation.

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1           I. Reserves for policies and contracts issued prior to the effective date of this chapter may be  
2 calculated, at the option of the company, according to any standards that produce greater aggregate  
3 reserves for all such policies and contracts than the minimum reserves required by the laws in effect  
4 immediately prior to that date.

5           II. Reserves for any category of policies, contracts, or benefits as established by the  
6 commissioner, issued on or after the effective date of this chapter, may be calculated, at the option of  
7 the company, according to any standards that produce greater aggregate reserves for the category  
8 than those calculated according to the minimum standard provided herein, but the rate or rates of  
9 interest used for policies and contracts, other than annuity and pure endowment contracts, shall not  
10 be greater than the corresponding rate or rates of interest used in calculating any nonforfeiture  
11 benefits provided for in the policies or contract.

12           III. A company, which adopts at any time a standard of valuation producing greater  
13 aggregate reserves than those calculated according to the minimum standard provided under this  
14 chapter may adopt a lower standard of valuation with the approval of the commissioner, but not  
15 lower than the minimum provided herein. Provided that, for the purposes of this section, the holding  
16 of additional reserves previously determined by the appointed actuary to be necessary to render the  
17 opinion required by RSA 410:4 shall not be deemed to be the adoption of a higher standard of  
18 valuation.

19           410:12 Reserve Calculation; Valuation Net Premium Exceeding the Gross Premium Charged.

20           I. If in any contract year the gross premium charged by a company on any policy or contract  
21 is less than the valuation net premium for the policy or contract calculated by the method used in  
22 calculating the reserve but using the minimum valuation standards of mortality and rate of interest,  
23 the minimum reserve required for the policy or contract shall be the greater of either the reserve  
24 calculated according to the mortality table, rate of interest, and method actually used for the policy  
25 or contract, or the reserve calculated by the method actually used for the policy or contract but using  
26 the minimum valuation standards of mortality and rate of interest and replacing the valuation net  
27 premium by the actual gross premium in each contract year for which the valuation net premium  
28 exceeds the actual gross premium. The minimum valuation standards of mortality and rate of  
29 interest referred to in this section are those standards stated in RSA 410:5 and RSA 410:7.

30           II. For a life insurance policy issued on or after January 1, 1985, for which the gross  
31 premium in the first policy year exceeds that of the second year and for which no comparable  
32 additional benefit is provided in the first year for the excess and which provides an endowment  
33 benefit or a cash surrender value or a combination in an amount greater than the excess premium,  
34 the provisions of this section shall be applied as if the method actually used in calculating the  
35 reserve for such policy were the method described in RSA 410:8, I. The minimum reserve at each  
36 policy anniversary of such a policy shall be the greater of the minimum reserve calculated in

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1 accordance with RSA 410:8, I and II, and the minimum reserve calculated in accordance with this  
2 section.

3 410:13 Reserve Calculation; Indeterminate Premium Plans. In the case of a plan of life  
4 insurance that provides for future premium determination, the amounts of which are to be  
5 determined by the insurance company based on its estimates of future experience, or in the case of a  
6 plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be  
7 determined by the methods described in RSA 410:8, 410:9 and 410:12, the reserves that are held  
8 under the plan shall:

9 I. Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

10 II. Be computed by a method that is consistent with the principles of this chapter as  
11 determined by rules adopted by the commissioner pursuant to RSA 541-A.

12 410:14 Minimum Standard for Accident and Health Insurance Contracts. For accident and  
13 health insurance contracts used on or after the operative date of the valuation manual, the standard  
14 prescribed in the valuation manual is the minimum standard of valuation required under RSA 410:3,  
15 II. For insurance contracts issued on or after April 7, 1943 and prior to the operative date of the  
16 valuation manual the minimum standard of valuation is the standard adopted by the commissioner  
17 by rule.

18 410:15 Valuation Manual for Policies Issued On or After the Operative Date of the Valuation  
19 Manual.

20 I. For policies issued on or after the operative date of the valuation manual, the standard  
21 prescribed in the valuation manual is the minimum standard of valuation required under RSA 410:3,  
22 II, except as provided under RSA 410:15, V or VII.

23 II. The operative date of the valuation manual is January 1 of the first calendar year  
24 following the first July 1 as of which all of the following have occurred:

25 (a) The valuation manual has been adopted by the NAIC by an affirmative vote of at  
26 least 42 members, or  $\frac{3}{4}$  of the members voting, whichever is greater.

27 (b) The standard valuation law, as amended by the NAIC in 2009, or legislation  
28 including substantially similar terms and provisions, has been enacted by states representing  
29 greater than 75 percent of the direct premiums written as reported in the following annual  
30 statements submitted for 2008: life, accident and health annual statements; health annual  
31 statements; or fraternal annual statements.

32 (c) The standard valuation law, as amended by the NAIC in 2009, or legislation  
33 including substantially similar terms and provisions, has been enacted by at least 42 states of the  
34 following 55 jurisdictions: The 50 states of the United States, American Samoa, the American Virgin  
35 Islands, the District of Columbia, Guam, and Puerto Rico.

36 III. Unless a change in the valuation manual specifies a later effective date, changes to the

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1 valuation manual shall be effective on January 1 following the date when the change to the  
2 valuation manual has been adopted by the NAIC by an affirmative vote representing:

3 (a) At least 3/4 of the members of the NAIC voting, but not less than a majority of the  
4 total membership; and

5 (b) Members of the NAIC representing jurisdictions totaling greater than 75 percent of  
6 the direct premiums written as reported in the following annual statements most recently available  
7 prior to the vote in subparagraph III(a): life, accident and health annual statements, health annual  
8 statements, or fraternal annual statements.

9 IV. The valuation manual shall specify all of the following:

10 (a) Minimum valuation standards for and definitions of the policies or contracts subject  
11 to RSA 410:3, II. Such minimum valuation standards shall be:

12 (1) The commissioner's reserve valuation method for life insurance contracts, other  
13 than annuity contracts, subject to RSA 410:3, II;

14 (2) The commissioner's annuity reserve valuation method for annuity contracts  
15 subject to RSA 410:3, II; and

16 (3) Minimum reserves for all other policies or contracts subject to RSA 410:3, II.

17 (b) Which policies or contracts or types of policies or contracts are subject to the  
18 requirements of a principle-based valuation in RSA 410:16, I and the minimum valuation standards  
19 consistent with those requirements.

20 (c) For policies and contracts subject to a principle-based valuation under RSA 410:16:

21 (1) Requirements for the format of reports to the commissioner under RSA 410:16,  
22 II(b) and which shall include information necessary to determine if the valuation is appropriate and  
23 in compliance with this chapter;

24 (2) Assumptions which shall be prescribed for risks over which the company does not  
25 have significant control or influence;

26 (3) Procedures for corporate governance and oversight of the actuarial function, and  
27 a process for appropriate waiver or modification of such procedures.

28 (d) For policies not subject to a principle-based valuation under RSA 410:16 the  
29 minimum valuation standard shall either:

30 (1) Be consistent with the minimum standard of valuation prior to the operative date  
31 of the valuation manual; or

32 (2) Develop reserves that quantify the benefits and guarantees, and the funding,  
33 associated with the contracts and their risks at a level of conservatism that reflects conditions that  
34 include unfavorable events that have a reasonable probability of occurring.

35 (e) Other requirements, including, but not limited to, those relating to reserve methods,  
36 models for measuring risk, generation of economic scenarios, assumptions, margins, use of company

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1 experience, risk measurement, disclosure, certifications, reports, actuarial opinions and  
2 memorandums, transition rules and internal controls; and

3 (f) The data and form of the data required under RSA 410:17, with whom the data must  
4 be submitted, and may specify other requirements including data analyses and reporting of analyses.

5 V. In the absence of a specific valuation requirement or if a specific valuation requirement in  
6 the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter,  
7 then the company shall, with respect to such requirements, comply with minimum valuation  
8 standards adopted by the commissioner by rule.

9 VI. The commissioner may engage a qualified actuary, at the expense of the company, to  
10 perform an actuarial examination of the company and comment on the appropriateness of any  
11 reserve assumption or method used by the company, or to review and comment on a company's  
12 compliance with any requirement set forth in this chapter. The commissioner may rely upon the  
13 opinion, regarding provisions contained within this chapter, from a qualified actuary engaged by the  
14 commissioner of another state, district or territory of the United States. In this paragraph, the term  
15 "engage" includes employment and contracting.

16 VII. The commissioner may require a company to change any assumption or method that in  
17 the opinion of the commissioner is necessary in order to comply with the requirements of the  
18 valuation manual or this chapter; and the company shall adjust the reserves as required by the  
19 commissioner. The commissioner may take other disciplinary action as permitted pursuant to  
20 RSA 400-A:15, III and RSA 400-A:16, V.

21 410:16 Requirements of a Principle-Based Valuation.

22 I. A company shall establish reserves using a principle-based valuation that meets the  
23 following conditions for policies or contracts as specified in the valuation manual:

24 (a) Quantify the benefits and guarantees, and the funding, associated with the contracts  
25 and their risks at a level of conservatism that reflects conditions that include unfavorable events  
26 that have a reasonable probability of occurring during the lifetime of the contracts. For policies or  
27 contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

28 (b) Incorporate assumptions, risk analysis methods and financial models and  
29 management techniques that are consistent with, but not necessarily identical to, those utilized  
30 within the company's overall risk assessment process, while recognizing potential differences in  
31 financial reporting structures and any prescribed assumptions or methods.

32 (c) Incorporate assumptions that are derived in one of the following manners:

33 (1) The assumption is prescribed in the valuation manual.

34 (2) For assumptions that are not prescribed, the assumption shall:

35 (A) Be established utilizing the company's available experience, to the extent it  
36 is relevant and statistically credible; or

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1 (B) To the extent that company data is not available, relevant, or statistically  
2 credible, be established utilizing other relevant, statistically credible experience.

3 II. A company using a principle-based valuation for one or more policies or contracts subject  
4 to this section as specified in the valuation manual shall:

5 (a) Establish procedures for corporate governance and oversight of the actuarial  
6 valuation function consistent with those described in the valuation manual.

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

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

15 III. A principle-based valuation may include a prescribed formulaic reserve component.

16 410:17 Experience Reporting for Policies in Force On or After the Operative Date of the  
17 Valuation Manual. A company shall submit mortality, morbidity, policyholder behavior, or expense  
18 experience and other data as prescribed in the valuation manual.

19 410:18 Confidentiality.

20 I. In this section, “confidential information” means:

21 (a) A memorandum in support of an opinion submitted under RSA 410:4 and any other  
22 document, materials and other information, including, but not limited to, all working papers, and  
23 copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person  
24 in connection with such memorandum;

25 (b) All documents, materials and other information, including, but not limited to, all  
26 working papers, and copies thereof, created, produced or obtained by or disclosed to the  
27 commissioner or any other person in the course of an examination made under RSA 410:15, VI;  
28 provided, however, that if an examination report or other material prepared in connection with an  
29 examination made under RSA 410:15, VI is not held as private and confidential information under  
30 RSA 400-A:37, an examination report or other material prepared in connection with an examination  
31 made under RSA 410:15, VI shall not be “confidential information” to the same extent as if such  
32 examination report or other material had been prepared under RSA 400-A:37;

33 (c) Any reports, documents, materials and other information developed by a company in  
34 support of, or in connection with, an annual certification by the company under RSA 410:16, II(b)  
35 evaluating the effectiveness of the company’s internal controls with respect to a principle-based  
36 valuation and any other documents, materials and other information, including, but not limited to,

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1 all working papers, and copies thereof, created, produced or obtained by or disclosed to the  
2 commissioner or any other person in connection with such reports, documents, materials and other  
3 information;

4 (d) Any principle-based valuation report developed under RSA 410:16, II(c) and any  
5 other documents, materials and other information, including, but not limited to, all working papers,  
6 and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other  
7 person in connection with such report; and

8 (e) Any documents, materials, data, and other information submitted by a company  
9 under RSA 410:17, collectively, “experience data,” and any other documents, materials, data, and  
10 other information, including, but not limited to, all working papers, and copies thereof, created or  
11 produced in connection with such experience data, in each case that include any potentially  
12 company-identifying or personally identifiable information, that is provided to or obtained by the  
13 commissioner (together with any “experience data,” the “experience materials”) and any other  
14 documents, materials, data, and other information, including, but not limited to, all working papers,  
15 and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other  
16 person in connection with such experience materials.

17 II. Privilege for, and Confidentiality of, Confidential Information.

18 (a) Except as provided in RSA 410:18, a company’s confidential information is  
19 confidential by law and privileged, and shall not be subject to RSA 91-A, shall not be subject to  
20 subpoena and shall not be subject to discovery or admissible in evidence in any private civil action;  
21 provided, however, that the commissioner is authorized to use the confidential information in the  
22 furtherance of any regulatory or legal action brought against the company as a part of the  
23 commissioner’s official duties.

24 (b) Neither the commissioner nor any person who received confidential information  
25 while acting under the authority of the commissioner shall be permitted or required to testify in any  
26 private civil action concerning any confidential information.

27 (c) In order to assist in the performance of the commissioner’s duties, the commissioner  
28 may share confidential information (1) with other state, federal, and international regulatory  
29 agencies and with the NAIC and its affiliates and subsidiaries and (2) in the case of confidential  
30 information specified in RSA 410:18 I(a) and (d) only, with the actuarial board for counseling and  
31 discipline or its successor upon request stating that the confidential information is required for the  
32 purpose of professional disciplinary proceedings and with state, federal and international law  
33 enforcements officials; in the case of (1) and (2), provided that such recipient agrees, and has the  
34 legal authority to agree, to maintain the confidentiality and privileged status of such documents,  
35 materials, data and other information in the same manner and to the same extent as required for  
36 the commissioner.

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1 (d) The commissioner may receive documents, materials, data, and other information,  
2 including otherwise confidential and privileged documents, materials, data or information, from the  
3 NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign  
4 or domestic jurisdictions and from the actuarial board for counseling and discipline or its successor  
5 and shall maintain as confidential or privileged any document, material, data, or other information  
6 received with notice or the understanding that it is confidential or privileged under the laws of the  
7 jurisdiction that is the source of the document, material or other information.

8 (e) The commissioner may enter into agreements governing sharing and use of  
9 information consistent with RSA 410:18, II.

10 (f) No waiver of any applicable privilege or claim of confidentiality in the confidential  
11 information shall occur as a result of disclosure to the commissioner under this section or as a result  
12 of sharing as authorized in RSA 410:18, II(c).

13 (g) A privilege established under the law of any state or jurisdiction that is substantially  
14 similar to the privilege established under RSA 410:18, II shall be available and enforced in any  
15 proceeding in, and in any court of, this state.

16 (h) In this section “regulatory agency,” “law enforcement agency” and the “NAIC”  
17 include, but are not limited to, their employees, agents, consultants and contractors.

18 III. Notwithstanding RSA 410:18, II, any confidential information specified in RSA 410:18,  
19 I(a) and (d):

20 (a) May be subject to subpoena for the purpose of defending an action seeking damages  
21 from the appointed actuary submitting the related memorandum in support of an opinion submitted  
22 under RSA 410:4 or principle-based valuation report developed under RSA 410:16, II(c) by reason of  
23 an action required by this chapter or by rules adopted under this chapter;

24 (b) May otherwise be released by the commissioner with the written consent of the  
25 company; and

26 (c) Once any portion of a memorandum in support of an opinion submitted under  
27 RSA 410:4 or a principle-based valuation report developed under RSA 410:16, II(c) is cited by the  
28 company in its marketing or is publicly volunteered to or before a governmental agency other than a  
29 state insurance department or is released by the company to the news media, all portions of such  
30 memorandum or report shall no longer be confidential.

31 221:2 New Section; Standard Nonforfeiture Law for Life Insurance; Definition. Amend RSA 409  
32 by inserting after section 1 the following new section:

33 409:1-a Definition. In this chapter, “operative date of the valuation manual” means the January  
34 1 of the first calendar year that the valuation manual as defined in RSA 410:2, XII is effective.

35 221:3 Standard Nonforfeiture Law for Life Insurance; Adjusted Premium After Later Dates.  
36 Amend RSA 409:5-b, VIII (f) and (g) to read as follows:



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1           (f)(1) *For policies issued prior to the operative date of the valuation manual*, any  
2 *Commissioner's Standard* Ordinary Mortality Tables, adopted after 1980 by the National  
3 Association of Insurance Commissioners, that are approved by rule adopted by the commissioner  
4 pursuant to RSA 541-A for use in determining the minimum nonforfeiture standard may be  
5 substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-  
6 Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.

7           (2) *For policies issued on or after the operative date of the valuation*  
8 *manual, the valuation manual shall provide the Standard Ordinary Mortality Table for*  
9 *use in determining the minimum nonforfeiture standard that may be substituted for the*  
10 *Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select*  
11 *Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. If the*  
12 *commissioner approves by regulation any Commissioner's Standard Ordinary Mortality*  
13 *Table adopted by the National Association of Insurance Commissioners for use in*  
14 *determining the minimum nonforfeiture standard for policies issued on or after the*  
15 *operative date of the valuation manual then that minimum nonforfeiture standard*  
16 *supersedes the minimum nonforfeiture standard provided by the valuation manual.*

17           (g)(1) *For policies issued prior to the operative date of the valuation manual*,  
18 any *commissioner's standard* industrial mortality tables, adopted after 1980 by the National  
19 Association of Insurance Commissioners, that are approved by rule adopted by the commissioner  
20 pursuant to RSA 541-A for use in determining the minimum nonforfeiture standard may be  
21 substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's  
22 1961 Industrial Extended Term Insurance Table.

23           (2) *For policies issued on or after the operative date of the valuation manual*  
24 *the valuation manual shall provide the Commissioner's Standard Mortality Table for use*  
25 *in determining the minimum nonforfeiture standard that may be substituted for the*  
26 *Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961*  
27 *Industrial Extended Term Insurance Table. If the commissioner approves by regulation*  
28 *any Commissioner's Standard Industrial Mortality Table adopted by the National*  
29 *Association of Insurance Commissioners for use in determining the minimum nonforfeiture*  
30 *standard for policies issued on or after the operative date of the valuation manual then*  
31 *that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard*  
32 *provided by the valuation manual.*

33           221:4 Standard Nonforfeiture Law for Life Insurance; Adjusted Premium After Later Dates.  
34 Amend RSA 409:5-b, IX to read as follows:

35           IX. *The nonforfeiture interest rate is defined below:*

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1                   ***(1) For policies issued prior to the operative date of the valuation manual,***  
2 the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be  
3 equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined  
4 in RSA 410 rounded to the nearer 1/4 of one percent.

5                   ***(2) For policies issued on or after the operative date of the valuation manual***  
6 ***the nonforfeiture interest rate per annum for any policy issued in a particular calendar***  
7 ***year shall be provided by the valuation manual.***

8           221:5 Effective Date. This act shall take effect January 1, 2014.

9

10   Approved: July 12, 2013

11   Effective Date: January 1, 2014