

HOUSE No. 2969

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to principle-based reserving for life insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	<i>1/20/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>1/4/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/4/2019</i>

HOUSE No. 2969

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 2969) of Aaron Michlewitz, James M. Cantwell and David F. DeCoste relative to principle-based reserving for life insurance. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to principle-based reserving for life insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 175 of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by inserting after section 9 the following section:-

3 Section 9 ½. (a) As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

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

8 “Appointed actuary”, a qualified actuary who is appointed in accordance with the
9 valuation manual to prepare the actuarial opinion required by section 9B½.

10 “Company”, an entity, which: (i) has written, issued or reinsured life insurance contracts,
11 accident and health insurance contracts or deposit-type contracts in the commonwealth and has at

12 least 1 such policy in force or on claim; or (ii) has written, issued or reinsured life insurance
13 contracts, accident and health insurance contracts or deposit-type contracts in any state and is
14 required to hold a certificate of authority to write life insurance, accident and health insurance or
15 deposit-type contracts in the commonwealth.

16 “Deposit-type contract”, contracts that do not incorporate mortality or morbidity risks and
17 as may be specified in the valuation manual.

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

20 “Policyholder behavior”, any action a policyholder, contract holder or other person with
21 the right to elect options, such as a certificate holder, may take pursuant to a policy or contract
22 subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium
23 payment, loan, annuitization or benefit elections prescribed by the policy or contract but
24 excluding events of mortality or morbidity that result in benefits prescribed in their essential
25 aspects by the terms of the policy or contract.

26 “Principle-based valuation”, a reserve valuation that uses 1 or more methods or 1 or more
27 assumptions determined by the insurer and is required to comply with subsection (f), as specified
28 in the valuation manual.

29 “Qualified actuary”, an individual who is qualified to sign the applicable statement of
30 actuarial opinion in accordance with the American Academy of Actuaries qualification standards
31 for actuaries signing such statements and who meets the requirements specified in the valuation
32 manual.

33 “Tail risk”, a risk that occurs either where the frequency of low probability events is
34 higher than expected under a normal probability distribution or where there are observed events
35 of very significant size or magnitude.

36 “Valuation manual”, the manual of valuation instructions adopted by the NAIC, operative
37 as of January 1, 2017, or as subsequently amended.

38 (b) (1) The commissioner shall annually value, or cause to be valued, the reserve
39 liabilities for all outstanding life insurance policies and annuity and pure endowment contracts of
40 every life insurance company doing business in the commonwealth issued before the effective
41 date of this section. In calculating reserve liabilities, the commissioner may use group methods
42 and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the
43 reserve liabilities required of a foreign or alien company, the commissioner may accept a
44 valuation made, or caused to be made, by the insurance supervisory official of any state or other
45 jurisdiction when the valuation complies with the minimum standard provided in this section.

46 (2) The minimum standard for the valuation of all policies and contracts, as appropriate,
47 subject to this section issued before the effective date of this section shall be that provided by the
48 laws in effect immediately before the effective date of this section. Subsections (d), (e) and (f)
49 shall not apply to such policies and contracts.

50 (c)(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities
51 for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and
52 health contracts and deposit-type contracts of every company issued on or after the effective date
53 of this section. In lieu of the valuation of the reserve liabilities required of a foreign or alien
54 company, the commissioner may accept a valuation made, or caused to be made, by the

55 insurance supervisory official of any state or other jurisdiction when the valuation complies with
56 the minimum standard provided in this section.

57 (2) Subsections (d), (e) and (f) shall apply to all policies and contracts issued on or after
58 the effective date of this section. Section 9 shall not apply to policies and contracts issued on or
59 after the effective date of this section.

60 (3) Notwithstanding the valuation manual, a mortality table shall only be applied to an
61 individual or group annuity or pure endowment contract subject to this subsection on a gender-
62 neutral or gender-blended basis in accordance with regulations promulgated by the
63 commissioner.

64 (d) For accident and health insurance contracts issued on or after the effective date of this
65 section, the standard prescribed in the valuation manual is the minimum standard of valuation
66 required pursuant to subsection (c).

67 (e)(1) For policies issued on or after the effective date of this section, the standard
68 prescribed in the valuation manual is the minimum standard of valuation required pursuant to
69 subsection (c), except as provided pursuant to paragraphs (5) or (7).

70 (2) Unless a change in the valuation manual specifies a later effective date, changes to the
71 valuation manual shall be effective on January 1 following the date that the changes are adopted
72 by the NAIC by an affirmative vote that satisfies the following requirements:

73 (i) not less than $\frac{3}{4}$ of the members of the NAIC voting, but not less than a majority of the
74 total membership; and

75 (ii) members of the NAIC representing jurisdictions totaling greater than 75 per cent of
76 the direct premiums written as reported in life, accident and health annual statements, health
77 annual statements or fraternal annual statements most recently available before the vote in clause
78 (i).

79 (3) The valuation manual shall specify the following:

80 (i) the minimum valuation standards for and definitions of the policies or contracts
81 subject to subsection (c), including: (A) the commissioners reserve valuation method for life
82 insurance contracts, other than annuity contracts, subject to subsection (c); (B) the
83 commissioners annuity reserve valuation method for annuity contracts subject to said subsection
84 (c); and (C) minimum reserves for all other policies or contracts subject to said subsection (c);

85 (ii) which policies or contracts or types of policies or contracts that are subject to the
86 requirements of a principle-based valuation in paragraph (1) of subsection (f) and the minimum
87 valuation standards consistent with those requirements;

88 (iii) for policies and contracts subject to a principle-based valuation pursuant to
89 subsection (f): (A) requirements for the format of reports to the commissioner pursuant to clause
90 (iii) of paragraph (2) of subsection (f) and which shall include information necessary to
91 determine if the valuation is appropriate and in compliance with this section; (B) assumptions for
92 risks over which the company does not have significant control or influence; and (C) procedures
93 for corporate governance and oversight of the actuarial function and a process for appropriate
94 waiver or modification of those procedures;

95 (iv) for policies not subject to a principle-based valuation pursuant to subsection (f), the
96 minimum valuation standard shall either be consistent with the minimum standard of valuation

97 before the operative date of the valuation manual, or develop reserves that quantify the benefits
98 and guarantees, and the funding, associated with the contracts and their risks at a level of
99 conservatism that reflects conditions that include unfavorable events that have a reasonable
100 probability of occurring;

101 (v) other requirements including, but not limited to, those relating to reserve methods,
102 models for measuring risk, generation of economic scenarios, assumptions, margins, use of
103 company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and
104 memorandums, transition rules and internal controls; and

105 (vi) the data and form of the data required pursuant to subsection (g), and to whom the
106 data shall be submitted and may specify other requirements including data analyses and reporting
107 of analyses.

108 (4) In the absence of a specific valuation requirement or if a specific valuation
109 requirement in the valuation manual is not, in the determination of the commissioner, in
110 compliance with this section, then the company shall, with respect to those requirements, comply
111 with minimum valuation standards prescribed by the commissioner through regulation.

112 (5) The commissioner may engage a qualified actuary, at the expense of an insurance
113 company, to perform an actuarial examination of that company and determine the
114 appropriateness of a reserve assumption or method used by the company or to review and
115 determine an insurance company's compliance with the requirements of this section. The
116 commissioner may rely upon the opinion of a qualified actuary engaged by the commissioner of
117 another state, district or territory of the United States. For purposes of this paragraph, the term
118 "engage" shall include employment and contracting.

119 (6) The commissioner may require a company to change an assumption or method that is
120 determined by the commissioner to be necessary in order to comply with the requirements of the
121 valuation manual or this section and the company shall adjust the reserves as required by the
122 commissioner. The commissioner may take other disciplinary action as permitted pursuant to this
123 chapter and chapter 176D.

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

126 (i) quantify the benefits and guarantees and the funding associated with the contracts and
127 their risks at a level of conservatism that reflects conditions that include unfavorable events that
128 have a reasonable probability of occurring during the lifetime of the contracts and, for policies or
129 contracts with significant tail risk, a company's valuation shall reflect conditions appropriately
130 adverse to quantify the tail risk;

131 (ii) incorporate assumptions, risk analysis methods and financial models and management
132 techniques that are consistent with, but not necessarily identical to, those utilized within the
133 company's overall risk assessment process, while recognizing potential differences in financial
134 reporting structures and prescribed assumptions or methods;

135 (iii) incorporate assumptions that are derived in 1 of the following manners: (A) the
136 assumption is prescribed in the valuation manual; (B) for assumptions that are not prescribed, the
137 assumptions shall: be established utilizing the company's available experience, to the extent it is
138 relevant and statistically credible; or to the extent that company data is not available, relevant or
139 statistically credible, be established utilizing other relevant, statistically credible experience; and

140 (iv) provide margins for uncertainty including adverse deviation and estimation error,
141 such that the greater the uncertainty the larger the margin and resulting reserve.

142 (2) A company using a principle-based valuation for 1 or more policies or contracts
143 subject to this section as specified in the valuation manual shall:

144 (i) establish procedures for corporate governance and oversight of the actuarial valuation
145 function consistent with those described in the valuation manual;

146 (ii) provide to the commissioner and the board of directors of the company an annual
147 certification of the effectiveness of the internal controls with respect to the principle-based
148 valuation, and those controls shall be designed to insure that all material risks inherent in the
149 liabilities and associated assets subject to that valuation are included in the valuation, and that
150 valuations are made in accordance with the valuation manual, and the certification shall be based
151 on the controls in place as of the end of the preceding calendar year; and

152 (iii) develop and file with the commissioner upon request a principle-based valuation
153 report that complies with standards prescribed in the valuation manual.

154 (3) A principle-based valuation may include a prescribed formulaic reserve component.
155 A company shall submit mortality, morbidity, policyholder behavior or expense experience and
156 other data as required by the valuation manual.

157 (g)(1) For purposes of this subsection, “regulatory agency,” “law enforcement agency”
158 and the “NAIC” shall include, but shall not be limited to, employees, agents, consultants and
159 contractors of those entities. The term “confidential information” shall mean:

160 (i) a memorandum in support of an opinion submitted pursuant to section 9B½ and other
161 documents, materials and other information including, but not limited to, all working papers, and
162 copies thereof, created, produced or obtained by or disclosed to the commissioner or other person
163 in connection with the memorandum;

164 (ii) all documents, materials and other information including, but not limited to, all
165 working papers, and copies thereof, created, produced or obtained by or disclosed to the
166 commissioner or other person in the course of an examination made pursuant to paragraph (6) of
167 subsection (e), provided, that if an examination report or other material prepared in connection
168 with an examination made pursuant to section 4 is not held as private and confidential
169 information pursuant to said section 4, an examination report or other material prepared in
170 connection with an examination made pursuant to said paragraph (6) of said subsection (e) shall
171 not be considered confidential information to the same extent as if the examination report or
172 other material had been prepared pursuant to section 4;

173 (iii) reports, documents, materials and other information developed by a company in
174 support of or in connection with an annual certification by the company pursuant to clause (ii) of
175 paragraph (2) of subsection (f) evaluating the effectiveness of the company's internal controls
176 with respect to a principle-based valuation and any other documents, materials and other
177 information including, but not limited to, all working papers, and copies thereof, created,
178 produced or obtained by or disclosed to the commissioner or other person in connection with the
179 reports, documents, materials and other information;

180 (iv) a principle-based valuation report developed pursuant to clause (iii) of paragraph (2)
181 of subsection (f) and other documents, materials and other information including, but not limited

182 to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the
183 commissioner or other person in connection with the report; and

184 (v) documents, materials, data and other information submitted by a company pursuant to
185 subsection (i) and any other documents, materials, data and other information including, but not
186 limited to, all working papers, and copies thereof, created or produced in connection with such
187 experience data, in each case that include potentially company-identifying or personally
188 identifiable information, that is provided to or obtained by the commissioner and any other
189 documents, materials, data and other information including, but not limited to, all working
190 papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or
191 other person in connection with such experience materials.

192 (2) Except as provided in this subsection, a company's confidential information is
193 confidential by law and privileged and shall not be subject to chapter 66 or the Twenty-sixth
194 clause of section 7 of chapter 4, shall not be subject to subpoena and shall not be subject to
195 discovery or admissible in evidence in a private civil action. The commissioner may use
196 confidential information in the furtherance of a regulatory or legal action brought against the
197 company as a part of the commissioner's official duties.

198 Neither the commissioner nor a person who received confidential information while
199 acting under the authority of the commissioner may testify in a private civil action concerning
200 confidential information.

201 In order to assist in the performance of the commissioner's duties, the commissioner may
202 share confidential information with other state, federal and international regulatory agencies and
203 with the NAIC and its affiliates and subsidiaries and, in the case of confidential information

204 specified in clauses (i) and (iv) of paragraph (1), with the Actuarial Board for Counseling and
205 Discipline or its successor upon request stating that the confidential information is required for
206 the purpose of professional disciplinary proceedings and with state, federal and international law
207 enforcement officials; provided, however, that the recipient agrees and has the legal authority to
208 agree to maintain the confidentiality and privileged status of the documents, materials, data and
209 other information in the same manner and to the same extent as required for the commissioner.

210 The commissioner may receive documents, materials, data and other information,
211 including otherwise confidential and privileged documents, materials, data or information, from
212 the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other
213 foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or
214 its successor and shall maintain as confidential or privileged any document, material, data or
215 other information received with notice or the understanding that it is confidential or privileged
216 under the laws of the jurisdiction that is the source of the document, material or other
217 information.

218 The commissioner may enter into agreements governing sharing and use of information
219 consistent with this paragraph.

220 No waiver of an applicable privilege or claim of confidentiality in the confidential
221 information shall occur as a result of disclosure to the commissioner pursuant to this section or as
222 a result of sharing as authorized in the third paragraph of this paragraph.

223 A privilege established pursuant to the law of any state or jurisdiction that is substantially
224 similar to the privilege established pursuant to this paragraph shall be available and enforced in a
225 proceeding in and in any court of the commonwealth.

226 (3) Notwithstanding paragraph (2), confidential information specified in clauses (i) and
227 (iv) of paragraph (1):

228 (i) may be subject to subpoena to defend an action seeking damages from the appointed
229 actuary submitting the related memorandum in support of an opinion submitted pursuant to
230 section 9B½ or principle-based valuation report developed pursuant to clause (iii) of paragraph
231 (2) of subsection (f) by reason of an action required by this section or through regulation;

232 (ii) may otherwise be released by the commissioner with the written consent of the
233 company; and

234 (iii) once a portion of a memorandum in support of an opinion submitted pursuant to
235 section 9B½ or a principle-based valuation report developed pursuant to clause (iii) of paragraph
236 (2) of subsection (f) is cited by the company in its marketing or is publicly volunteered to or
237 before a governmental agency other than a state insurance department or is released by the
238 company to the news media, all portions of that memorandum or report shall no longer be
239 confidential.

240 (h)(1) The commissioner may exempt specific product forms or product lines of a
241 domestic company that is licensed and doing business only in the commonwealth from the
242 requirements of subsection (e) provided that the: (i) commissioner has issued an exemption in
243 writing to the company and has not subsequently revoked the exemption in writing; and (ii)
244 company computes reserves using assumptions and methods used before the effective date of
245 this section in addition to any requirements established by the commissioner and promulgated by
246 regulation.

247 (2) The minimum standards for the valuation of all applicable policies and contracts
248 provided by the laws in effect immediately before the effective date of this section shall be
249 applicable for a company granted an exemption pursuant to this section or section 9B½.

250 (i) The commissioner may, pursuant to chapter 30A, upon notice and opportunity for all
251 interested parties to be heard, issue rules, regulations and orders as shall be necessary to carry out
252 this section.

253 (j) This section shall apply to all life insurance contracts, accident and health insurance
254 contracts and deposit-type contracts issued on or after the effective date of this section as defined
255 herein.

256 SECTION 2. Said chapter 175 is hereby further amended by inserting after section 9B
257 the following section:-

258 Section 9B½. (a) For purposes of this section, the definitions in subsection (a) of section
259 9½ shall apply unless the context clearly requires otherwise.

260 (b) After the effective date of this section, every company with outstanding life
261 insurance contracts, accident and health insurance contracts or deposit-type contracts in the
262 commonwealth and subject to regulation by the commissioner shall annually submit the opinion
263 of the appointed actuary as to whether the reserves and related actuarial items held in support of
264 the policies and contracts are computed appropriately, are based on assumptions that satisfy
265 contractual provisions, are consistent with prior reported amounts and comply with applicable
266 laws of the commonwealth. The valuation manual shall prescribe the specifics of this opinion
267 including items necessary to the scope of the opinion.

268 (c) Prior to the effective date of this section, the specifics of the opinion and the manner
269 in which the confidentiality of the memorandum in support of the opinion shall be protected shall
270 be as prescribed by section 9B.

271 (d) After the effective date of this section, every company with outstanding life
272 insurance contracts, accident and health insurance contracts or deposit-type contracts in the
273 commonwealth and subject to regulation by the commissioner, except as exempted in the
274 valuation manual, shall also annually include in the opinion required by subsection (b) an
275 opinion of the same appointed actuary as to whether the reserves and related actuarial items held
276 in support of the policies and contracts specified in the valuation manual, when considered in
277 light of the assets held by the company with respect to the reserves and related actuarial items
278 including, but not limited to, the investment earnings on the assets and the considerations
279 anticipated to be received and retained under the policies and contracts, make adequate provision
280 for the company's obligations under the policies and contracts including, but not limited to, the
281 benefits under and expenses associated with the policies and contracts.

282 (e) The commissioner may provide by regulation for a transition period for establishing
283 higher reserves that the appointed actuary may deem necessary in order to render the opinion
284 required by subsection (b).

285 (f) A memorandum, in form and substance as specified in the valuation manual, and
286 acceptable to the commissioner, shall be prepared to support each actuarial opinion required by
287 subsection (b).

288 If the insurance company fails to provide a supporting memorandum at the request of the
289 commissioner within a period specified in the valuation manual or the commissioner determines

290 that the supporting memorandum provided by the insurance company fails to meet the standards
291 prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the
292 commissioner may engage a qualified actuary at the expense of the company to review the
293 opinion and the basis for the opinion and prepare the supporting memorandum required by the
294 commissioner.

295 The opinion shall be in form and substance as specified in the valuation manual and
296 acceptable to the commissioner.

297 The opinion shall be submitted with the annual statement reflecting the valuation of
298 reserve liabilities for each year ending on or after the effective date of this section.

299 The opinion shall apply to all policies and contracts subject to subsection (d) in addition
300 to any other actuarial liabilities specified in the valuation manual.

301 The opinion shall be based on standards adopted from time to time by the Actuarial
302 Standards Board or its successor and on such additional standards as may be prescribed in the
303 valuation manual.

304 In the case of an opinion required to be submitted by a foreign or alien company, the
305 commissioner may accept the opinion filed by that company with the insurance supervisory
306 official of another state if the commissioner determines that the opinion reasonably meets the
307 requirements applicable to a company domiciled in the commonwealth.

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

311 Disciplinary action by the commissioner against the company or the appointed actuary
312 shall be defined in regulations by the commissioner.

313 After the effective date of this section, a memorandum in support of an opinion submitted
314 pursuant to section 9B½ and other documents, materials and information including, but not
315 limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed
316 to the commissioner or other person in connection with the memorandum is deemed confidential
317 information pursuant to clause (i) of paragraph (1) of subsection (j) of section 9½ and shall be
318 treated and protected as required pursuant to that section.

319 (g) The commissioner may, pursuant to chapter 30A, upon notice and opportunity for all
320 interested parties to be heard, issue rules, regulations and orders as shall be necessary to carry out
321 this section.

322 SECTION 3. Said chapter 175 is hereby further amended by inserting after section 144
323 the following section:-

324 Section 144½. (a) Section 144 shall not apply to policies issued on and after the effective
325 date of this section. (b) In the case of policies issued on or after the effective date of this
326 section, no policy of life insurance, except as provided in subsection (i), shall be delivered or
327 issued for delivery in the commonwealth unless it contains in substance the following or
328 corresponding provisions which are, in the opinion of the commissioner, at least as favorable to
329 the defaulting or surrendering policyholder as are the minimum requirements specified here and
330 are in compliance with subsection (h).

331 In the event of default in a premium payment, the company will grant, upon proper
332 request not later than 60 days after the due date of the premium in default, a paid-up

333 nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of an amount
334 as may be hereinafter specified. In lieu of the stipulated paid-up nonforfeiture benefit, the
335 company may substitute, upon proper request not later than 60 days after the due date of the
336 premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which
337 provides a greater amount or longer period of death benefits or, if applicable, a greater amount or
338 earlier payment of endowment benefits.

339 Upon surrender of the policy not later than 60 days after the due date of a premium
340 payment in default after premiums have been paid for at least 3 years in the case of ordinary
341 insurance or 5 years in the case of industrial insurance, the company will pay, in lieu of a paid-up
342 nonforfeiture benefit, a cash surrender value of an amount as may be hereinafter specified.

343 A specified paid-up nonforfeiture benefit shall become effective as specified in the policy
344 unless the person entitled to make the election elects another available option not later than 60
345 days after the due date of the premium in default.

346 If the policy shall have become paid-up by completion of all premium payments or if it is
347 continued under a paid-up nonforfeiture benefit which became effective on or after the third
348 policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of
349 industrial insurance, the company will pay, upon surrender of the policy not later than thirty 30
350 days after a policy anniversary, a cash surrender value of an amount as may be hereinafter
351 specified.

352 In the case of policies which cause, on a basis guaranteed in the policy, unscheduled
353 changes in benefits or premiums, or which provide an option for changes in benefits or premiums
354 other than a change to a new policy; a statement of the mortality table, interest rate and method

355 used in calculating cash surrender values and the paid-up nonforfeiture benefits available under
356 the policy. In the case of all other policies, a statement of the mortality table and interest rate
357 used in calculating the cash surrender values and the paid-up nonforfeiture benefits available
358 under the policy, together with a table showing the cash surrender value, if any, and paid-up
359 nonforfeiture benefit, if any, available under the policy on each policy anniversary either during
360 the first 20 policy years or during the term of the policy, whichever is shorter, such values and
361 benefits to be calculated upon the assumption that there are no dividends or paid-up additions
362 credited to the policy and that there is no indebtedness to the company on the policy.

363 A statement that the cash surrender values and the paid-up nonforfeiture benefits
364 available under the policy are not less than the minimum values and benefits required by or
365 pursuant to the insurance law of the state in which the policy is delivered; an explanation of the
366 manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by
367 the existence of any paid-up additions credited to the policy or any indebtedness to the company
368 on the policy; if a detailed statement of the method of computation of the values and benefits
369 shown in the policy is not stated therein, a statement that a method of computation has been filed
370 with the insurance supervisory official of the state in which the policy is delivered; and a
371 statement of the method to be used in calculating the cash surrender value and a paid-up
372 nonforfeiture benefit available under the policy on a policy anniversary beyond the last
373 anniversary for which values and benefits are consecutively shown in the policy.

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

376 The company shall reserve the right to defer the payment of a cash surrender value for a
377 period of 6 months after demand therefor with surrender of the policy.

378 (c)(1) A cash surrender value available under the policy in the event of default in a
379 premium payment due on a policy anniversary, whether or not required by subsection (b), shall
380 be an amount not less than the excess, if any, of the present value, on the anniversary, of the
381 future guaranteed benefits which would have been provided for by the policy, including any
382 existing paid-up additions, if there had been no default, over the sum of: (i) the then present
383 value of the adjusted premiums as defined in subsection (e), corresponding to premiums which
384 would have fallen due on and after the anniversary; and (ii) the amount of any indebtedness to
385 the company on the policy.

386 (2) For a policy issued on or after the operative date of subsection (e), which provides
387 supplemental life insurance or annuity benefits at the option of the insured and for an identifiable
388 additional premium by rider or supplemental policy provision, the cash surrender value referred
389 to in paragraph (1) shall be an amount not less than the sum of the cash surrender value for an
390 otherwise similar policy issued at the same age without the rider or supplemental policy
391 provision and the cash surrender value as defined in paragraph (1) for a policy which provides
392 only the benefits otherwise provided by the rider or supplemental policy provision.

393 (3) For a family policy issued on or after the operative date of subsection (e), which
394 defines a primary insured and provides term insurance on the life of the spouse of the primary
395 insured expiring before the spouse reaches the age of 71, the cash surrender value referred to in
396 paragraph (1) shall be an amount not less than the sum of the cash surrender value for an
397 otherwise similar policy issued at the same age without term insurance on the life of the spouse

398 and the cash surrender value as defined in paragraph (1) for a policy which provides only the
399 benefits otherwise provided by term insurance on the life of the spouse.

400 (4) A cash surrender value available not later than 30 days after a policy anniversary
401 under a policy paid-up by completion of all premium payments or a policy continued pursuant to
402 a paid-up nonforfeiture benefit, whether or not required by subsection (b), shall be an amount not
403 less than the present value, on the anniversary, of the future guaranteed benefits provided for by
404 the policy, including any existing paid-up additions, decreased by any indebtedness to the
405 company on the policy.

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

411 (e)(1) Except as provided in paragraph (7), the adjusted premiums for a policy shall be
412 calculated on an annual basis and shall be such uniform percentage of the respective premiums
413 specified in the policy for each policy year, excluding amounts payable as extra premiums to
414 cover impairments or special hazards and also excluding any uniform annual contract charge or
415 policy fee specified in the policy in a statement of the method to be used in calculating the cash
416 surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of
417 the policy, of all adjusted premiums shall be equal to the sum of: (i) the then present value of the
418 future guaranteed benefits provided for by the policy; (ii) 1 per cent of either the amount of
419 insurance, if the insurance is uniform in amount, or the average amount of insurance at the

420 beginning of each of the first 10 policy years; and (iii) 125 per cent of the nonforfeiture net level
421 premium as hereinafter defined, provided, however, that in applying this percentage no
422 nonforfeiture net level premium shall be deemed to exceed 4 per cent of either the amount of
423 insurance, if the insurance is uniform in amount, or the average amount of insurance at the
424 beginning of each of the first 10 policy years.

425 The date of issue of a policy for the purpose of this section shall be the date as of which
426 the rated age of the insured is determined.

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

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

439 (4) Except as otherwise provided in paragraph (7), the recalculated future adjusted
440 premiums for a policy shall be a uniform percentage of the respective future premiums specified
441 in the policy for each policy year, excluding amounts payable as extra premiums to cover

442 impairments and special hazards, and also excluding any uniform annual contract charge or
443 policy fee specified in the policy in a statement of the method to be used in calculating the cash
444 surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change
445 to the newly defined benefits or premiums, of all future adjusted premiums shall be equal to the
446 excess of the sum of the then present value of the then future guaranteed benefits provided for by
447 the policy and the additional expense allowance, if any, over the then cash surrender value, if
448 any, or present value of any paid-up nonforfeiture benefit under this policy.

449 (5) The additional expense allowance, at the time of the change to the newly defined
450 benefits or premiums, shall be the sum of: (i) 1 per cent of the excess, if positive, of the average
451 amount of insurance at the beginning of each of the first 10 policy years subsequent to the
452 change over the average amount of insurance before the change at the beginning of each of the
453 first 10 policy years subsequent to the time of the most recent previous change, or, if there has
454 been no previous change, the date of issue of the policy; and (ii) 125 per cent of the increase, if
455 positive, in the nonforfeiture net level premium.

456 (6) The recalculated nonforfeiture net level premium shall be equal to the result obtained
457 by dividing (i) by (ii), where (i) equals the sum of the nonforfeiture net level premium applicable
458 before the change times the present value of an annuity of 1 per annum payable on each
459 anniversary of the policy on or subsequent to the date of the change on which a premium would
460 have fallen due had the change not occurred and the present value of the increase in future
461 guaranteed benefits provided for by the policy, and (ii) equals the present value of an annuity of
462 1 per annum payable on each anniversary of the policy on or subsequent to the date of change on
463 which a premium falls due.

464 (7) Notwithstanding this section or any other general or special law to the contrary, in the
465 case of a policy issued on a substandard basis which provides reduced graded amounts of
466 insurance so that, in each policy year, the policy has the same tabular mortality cost as an
467 otherwise similar policy issued on the standard basis which provides higher uniform amount of
468 insurance, adjusted premiums and present values for the substandard policy may be calculated as
469 if it were issued to provide higher uniform amounts of insurance on the standard basis.

470 (8) All adjusted premiums and present values referred to in this section shall for all
471 policies: (i) of ordinary insurance be calculated on the basis of the Commissioners 1980 Standard
472 Ordinary Mortality Table or, at the election of the company for specified plans of life insurance,
473 the Commissioners 1980 Standard Ordinary Mortality Table with 10 year select mortality
474 factors; (ii) of industrial insurance be calculated on the basis of the Commissioners 1961
475 Standard Industrial Mortality Table; and (iii) issued in a particular calendar year be calculated on
476 the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this
477 section, for policies issued in that calendar year.

478 At the option of the company, calculations for all policies issued in a particular calendar
479 year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate,
480 as defined in this section, for policies issued in the immediately preceding calendar year.

481 Under a paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash
482 surrender value available, whether or not required by subsection (b), shall be calculated on the
483 basis of the mortality table and rate of interest used in determining the amount of a paid-up
484 nonforfeiture benefit and paid-up dividend additions.

485 A company may calculate the amount of a guaranteed paid-up nonforfeiture benefit
486 including paid-up additions under the policy on the basis of an interest rate not lower than that
487 specified in the policy for calculating cash surrender values.

488 In calculating the present value of paid-up term insurance with accompanying pure
489 endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed shall not be
490 more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies
491 of ordinary insurance or not more than the Commissioners 1961 Industrial Extended Term
492 Insurance Table for policies of industrial insurance.

493 For insurance issued on a substandard basis, the calculation of adjusted premiums and
494 present values may be based on appropriate modifications of the aforementioned tables.

495 For policies issued on or after the effective date of this section, the valuation manual shall
496 provide the Commissioners Standard Mortality Table for use in determining the minimum
497 nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary
498 Mortality Table with or without 10 year select mortality factors or for the Commissioners 1980
499 Extended Term Insurance Table. If the commissioner approves by regulation a commissioners
500 standard ordinary mortality table adopted by the NAIC for use in determining the minimum
501 nonforfeiture standard for policies issued on or after the effective date of this section then that
502 minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the
503 valuation manual.

504 For policies issued on or after the effective date of this section the valuation manual shall
505 provide the Commissioners Standard Mortality Table for use in determining the minimum
506 nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial

507 Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the
508 commissioner approves by regulation a Commissioners Standard Industrial Mortality Table
509 adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies
510 issued on or after the effective date of this section then that minimum nonforfeiture standard
511 supersedes the minimum nonforfeiture standard provided by the valuation manual.

512 (9) For policies issued on and after the effective date of this section, the nonforfeiture
513 interest rate per annum for a policy issued in a particular calendar year shall be provided by the
514 valuation manual.

515 (10) Notwithstanding this chapter or any general or special law to the contrary, a refiling
516 of nonforfeiture values or their methods of computation for a previously approved policy form
517 which involves only a change in the interest rate or mortality table used to compute nonforfeiture
518 values shall not require refiling of other provisions of that policy form.

519 (f) In the case of a plan of life insurance which provides for future premium
520 determination, the amounts of which are to be determined by the insurance company based on
521 estimates of future experience, or in the case of a plan of life insurance which is of such a nature
522 that minimum values cannot be determined by the methods described in subsections (b), (c), (d)
523 or (e):

524 (i) the commissioner shall be satisfied that the benefits provided under the plan are
525 substantially as favorable to policyholders and insureds as the minimum benefits otherwise
526 required by said subsections (b), (c), (d) or (e);

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

529 (iii) the cash surrender values and paid-up nonforfeiture benefits provided by the plan
530 shall not be less than the minimum values and benefits required for the plan computed by a
531 method consistent with the principles of this section, as determined by regulations promulgated
532 by the commissioner.

533 (g) Any cash surrender value and paid-up nonforfeiture benefit available under the policy
534 in the event of default in a premium payment due at any time other than on the policy
535 anniversary shall be calculated with allowance for the lapse of time and the payment of fractional
536 premiums beyond the last preceding policy anniversary. All values referred to in subsections (c),
537 (d) and (e) may be calculated upon the assumption that a death benefit is payable at the end of
538 the policy year of death. The net value of any paid-up additions, other than paid-up term
539 additions, shall not be less than the amounts used to provide those additions. Notwithstanding
540 said subsection (c), additional benefits payable: (i) in the event of death or dismemberment by
541 accident or accidental means; (ii) in the event of total and permanent disability; (iii) as
542 reversionary annuity or deferred reversionary annuity benefits; (iv) as term insurance benefits
543 provided by a rider or supplemental policy provision to which, if issued as a separate policy, this
544 section would not apply; (v) as term insurance in the life on a child or on the lives of children
545 provided in a policy on the life of a parent of the child, if that term insurance expires before the
546 child's age is 26, is uniform in amount after the child's age is 1, and has not become paid-up by
547 reason of the death of a parent of the child; and (vi) as other policy benefits additional to life
548 insurance and endowment benefits, and premiums for all such additional benefits, shall be
549 disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this
550 section and no such additional benefits shall be required to be included in any paid-up
551 nonforfeiture benefits.

552 (h) (1) This subsection shall apply to all policies issued on or after the effective date of
553 this section.

554 (2) Any cash surrender value available under the policy in the event of default in a
555 premium payment due on a policy anniversary shall be in an amount which does not differ by
556 more than .2 per cent of either the amount of insurance, if the insurance is uniform in amount, or
557 the average amount of insurance at the beginning of each of the first 10 policy years, from the
558 sum of the greater of 0 and the basic cash value hereinafter specified and the present value of any
559 existing paid-up additions less the amount of any indebtedness to the company under the policy.

560 The basic cash value shall be equal to the present value, on the anniversary, of the future
561 guaranteed benefits which would have been provided for by the policy, excluding any existing
562 paid-up additions and before deduction of any indebtedness to the company, if there had been no
563 default, less the then present value of the nonforfeiture factors, as defined in this section,
564 corresponding to premiums which would have fallen due on and after the anniversary. Provided,
565 however, that the effects on the basic cash value of supplemental life insurance or annuity
566 benefits or of family coverage, as described in subsection (c), shall be the same as the effects
567 specified in said subsection (c) on the cash surrender values defined in this section.

568 (3) The nonforfeiture factor for each policy year shall be an amount equal to a percentage
569 of the adjusted premium for the policy year, as defined in subsection (e); provided, however, that
570 no basic cash value may be less than the value which would be obtained if the adjusted
571 premiums for the policy, as defined in subsection (e), were substituted for the nonforfeiture
572 factors in the calculation of the basic cash value. The percentage: (i) shall be the same percentage
573 for each policy year between the second policy anniversary and the later of either the fifth policy

574 anniversary or the first policy anniversary at which there is available under the policy a cash
575 surrender value in an amount, before including any paid-up additions and before deducting any
576 indebtedness, of at least .2 per cent of either the amount of insurance, if the insurance is uniform
577 in amount, or the average amount of insurance at the beginning of each of the first 10 policy
578 years; and (ii) shall be such that no percentage after the later of the 2 policy anniversaries
579 specified in paragraph (2) may apply to fewer than 5 consecutive policy years.

580 All adjusted premiums and present values referred to in this subsection shall for a
581 particular policy be calculated on the same mortality and interest bases as are used in
582 demonstrating the policy's compliance with this section. The cash surrender values referred to in
583 this section shall include endowment benefits provided for by the policy.

584 Any cash surrender value available other than in the event of default in a premium
585 payment due on a policy anniversary, and the amount of a paid-up nonforfeiture benefit available
586 under the policy in the event of default in a premium payment shall be determined in manners
587 consistent with the manners specified for determining the analogous minimum amounts in
588 subsections (b), (c), (d), (e) and (g). The amounts of any cash surrender values and of paid-up
589 nonforfeiture benefits granted in connection with additional benefits such as those listed in
590 paragraphs (1) to (6) of subsection (g) shall conform with the principles of this section.

591 (i) This section shall not apply to: reinsurance; group insurance; pure endowment;
592 annuity or reversionary annuity contracts; a term policy of uniform amount, which provides no
593 guaranteed nonforfeiture or endowment benefits, or renewal thereof, of not more than 20 years
594 expiring before age 71, for which uniform premiums are payable during the entire term of the
595 policy; a term policy of decreasing amount, which provides no guaranteed nonforfeiture or

596 endowment benefits, on which each adjusted premium, calculated as specified in subsection (e),
597 is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal
598 thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same
599 age and for the same initial amount of insurance and for a term of 20 years or less expiring
600 before age 71, for which uniform premiums are payable during the entire term of the policy; a
601 policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash
602 surrender value, if any, or present value of a paid-up nonforfeiture benefit, at the beginning of a
603 policy year, calculated as specified in subsections (c), (d) and (e), exceeds 2 ½ per cent of the
604 amount of insurance at the beginning of the same policy year; or a policy which shall be
605 delivered outside the commonwealth through an agent or other representative of the company
606 issuing the policy.

607 For purposes of determining the applicability of this section, the age at expiration for a
608 joint term life insurance policy shall be the age at expiration of the oldest life.

609 (j) The commissioner may, pursuant to chapter 30A, upon notice and opportunity for all
610 interested parties to be heard, promulgate rules, regulations and orders as shall be necessary for
611 the implementation and administration of this section.

612 SECTION 4. Subsection (e) of section 144 ½ of chapter 175 of the General Laws shall
613 apply to all policies issued on or after the effective date of this act.