((~~(64)~~)) (40) Section 16, chapter 200, Laws of 1907 and RCW 88.04.230;

((~~(65)~~)) (41) Section 21, chapter 200, Laws of 1907 and RCW 88.04.240;

((~~(66)~~)) (42) Section 22, chapter 200, Laws of 1907 and RCW 88.04.250;

((~~(67)~~)) (43) Section 23, chapter 200, Laws of 1907 and RCW 88.04.260;

((~~(68)~~)) (44) Section 24, chapter 200, Laws of 1907 and RCW 88.04-.270; and

((~~(69)~~)) (45) Section 25, chapter 200, Laws of 1907 and RCW 88.04.280.

NEW SECTION. Sec. 13. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1979.

Passed the House February 22, 1979.
Passed the Senate March 7, 1979.
Approved by the Governor March 30, 1979.
Filed in Office of Secretary of State March 30, 1979.

CHAPTER 157

[House Bill No. 735]

INSURANCE——VALUATION——NONFORFEITURE

AN ACT Relating to insurance; amending section .12.15, chapter 79, Laws of 1947 as last amended by section 4, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.12.150; amending section 5, chapter 104, Laws of 1969 as amended by section 6, chapter 163, Laws of 1973 1st ex. sess. and RCW 48.18A.050; amending section .23.20, chapter 79, Laws of 1947 and RCW 48.23.200; amending section .23.35, chapter 79, Laws of 1947 as last amended by section 5, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.23.350; and adding a new section to chapter 48.23 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section .12.15, chapter 79, Laws of 1947 as last amended by section 4, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.12.150 are each amended to read as follows:

(1) This section shall be known as the standard valuation law.

(2) Annual valuation: The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts

of every life insurer doing business in this state, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept, in his discretion, the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

(3) Minimum valuation standard:

(a) The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of RCW 48.23.350 shall be as follows:

For policies issued prior to the operative date no standard of valuation for ordinary policies, whether on the net level premium, preliminary term, or select and ultimate reserve basis, shall be less than that determined upon such basis according to the American Experience Table of Mortality with three and one-half percent interest; except, that when the preliminary term basis is used it shall not exceed one year. The commissioner may vary the standard of valuation in particular cases of invalid lives and other extra hazards, provided, that the interest rate used is not greater than three and one-half percent.

Except as otherwise provided in subsection (3)(b)(ii) of this section the legal minimum standard for the valuation of annuities issued on or after January 1, 1912, and prior to the operative date of RCW 48.23.350, shall be McClintock's Table of Mortality Among Annuitants, with interest at <u>five percent per annum for group annuity contracts and</u> three and one-half percent per annum <u>for all other annuity contracts</u>, but annuities deferred ten or more years and written in connection with life or term insurance may be valued on the same mortality table from which the consideration or premiums were computed, with interest not higher than three and one-half percent per annum.

The legal minimum standard for the valuation of industrial policies issued on or after the first day of January, 1912, and prior to the operative date of RCW 48.23.350, shall be the American Experience Table of Mortality with interest at three and one-half percent per annum; except, that any life insurer may voluntarily value such industrial policies according to the Standard Industrial Mortality Table or the Substandard Industrial Mortality Table.

The legal minimum standard for the valuation of group life insurance policies under which premium rates are not guaranteed for a period in excess of five years shall be, at the option of the life insurer issuing such policies, either the American Men Ultimate Table of Mortality, the Commissioners 1941 Standard Ordinary Mortality Table, or any other table approved by the commissioner, with interest at three and one-half percent per annum.

(b) (i) Except as otherwise provided in subsection (3)(b)(ii) of this section the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of RCW 48.23.350 shall be the Commissioners Reserve Valuation Methods defined in subsections (4), (4a), and (7) of this section, five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other policies and contracts or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 16, 1973, four percent interest for the policies issued before the effective date of this 1979 act, five and one-half percent interest for single premium life insurance policies, and four and one-half percent interest for all other such policies issued on and after the effective date of this 1979 act, and the following tables:

(A) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,——the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of RCW 48.23.350(5a), and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date: PROVIDED, That for any category of such policies issued on female risks on or after July 1, 1957, modified net premiums and present values, referred to in subsection (4) of this section, may be calculated according to an age not more than ((~~three~~)) six years younger than the actual age of the insured.

(B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—— the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of RCW 48.23.350(5b), and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,——the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

(D) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,——the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts,——for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(F) For accidental death benefits in or supplementary to policies,——for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter–Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter–Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(G) For group life insurance, life insurance issued on the substandard basis and other special benefits,——such tables as may be approved by the commissioner.

(ii) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in subsections (4) and (4a) of this section and the following tables and interest rates:

(A) For individual annuity and pure endowment contracts issued before the effective date of this 1979 act, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(B) For individual single premium immediate annuity contracts issued on or after the effective date of this 1979 act, excluding any disability and accidental death benefits in such contracts,——the 1971 Individual Annuity

Mortality Table, or any modification of this table approved by the commissioner, and seven and one-half percent interest.

(C) For individual annuity and pure endowment contracts issued on or after the effective date of this 1979 act, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts,——the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(D) For all annuities and pure endowments purchased before the effective date of this 1979 act under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Group Mortality Table, or any modification of this table approved by the commissioner, and six percent interest.

(E) For all annuities and pure endowments purchased on or after the effective date of this 1979 act under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts,——the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner, and seven and one-half percent interest.

After July 16, 1973 any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this subsection for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1979.

(4) Commissioners Reserve Valuation Method: Except as otherwise provided in subsections (4a) and (7) of this section, reserves according to the Commissioners Reserve Valuation Method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits (excluding extra premiums on a substandard policy) that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b) as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

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

Reserves according to the Commissioners Reserve Valuation Method for ((~~(1)~~)) (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, ((~~(2)~~)) (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, ((~~(3)~~)) (iii) disability and accidental death benefits in all policies and contracts, and ((~~(4)~~)) (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection.

(4a) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, shall be the greater of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable prior to the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

(5) Minimum aggregate reserves: In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of RCW 48.23.350, be less than the aggregate reserves calculated in accordance with the method set forth in subsections (4), (4a), and (7) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(6) Optional reserve bases: Reserves for all policies and contracts issued prior to the operative date of RCW 48.23.350 may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

For any category of policies, contracts or benefits specified in subsection (3) of this section, issued on or after the operative date of RCW 48.23.350, reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein((~~: PROVIDED, That reserves for participating life insurance policies issued on or after the operative date of RCW 48.23.350 may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half percent the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve~~)).

Any such insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(7) ((~~Deficiency~~)) Minimum reserve: If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract ((~~according to the mortality table, rate of interest and~~)) calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, ((~~there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each~~

~~such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period~~)) the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium.

Sec. 2. Section 5, chapter 104, Laws of 1969 as amended by section 6, chapter 163, Laws of 1973 1st ex. sess. and RCW 48.18A.050 are each amended to read as follows:

The provisions of RCW 48.23.020, 48.23.030, 48.23.080 through 48.23-.120, 48.23.140, 48.23.150, 48.23.200 through 48.23.240, 48.23.310, 48.23-.350, ((~~and~~)) 48.23.360, and section 5 of this 1979 act, and the provisions of chapter 48.24 RCW shall be inapplicable to variable contracts; nor shall any provision in the code requiring contracts to be participating be deemed applicable to variable contracts. Except as otherwise provided in this chapter, all pertinent provisions of the insurance code shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance or individual variable annuity contract delivered or issued for delivery in this state shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such contracts, and any such variable life insurance contract shall provide that the investment experience of the separate account shall in no event operate to reduce the death benefit below an amount equal to the face amount of the contract at the time the contract was issued. Any individual variable life insurance contract may contain a provision for deduction from the death proceeds of amounts of due and unpaid premiums or of indebtedness which are appropriate to such contracts. The reserve liability for variable annuities shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Sec. 3. Section .23.20, chapter 79, Laws of 1947 and RCW 48.23.200 are each amended to read as follows:

Such contracts issued after the operative date of RCW 48.23.360 and before the operative date of section 5 of this 1979 act shall contain:

(1) A provision that in the event of default in any stipulated payment, the insurer will grant a paid-up nonforfeiture benefit on a plan stipulated in the contract, effective as of such date, of such value as is hereinafter specified.

(2) A statement of the mortality table and interest rate used in calculating the paid-up nonforfeiture benefit available under the contract.

(3) An explanation of the manner in which the paid–up nonforfeiture benefits are altered by the existence of any paid–up additions credited to the contract or any indebtedness to the insurer on the contract.

Sec. 4. Section .23.35, chapter 79, Laws of 1947 as last amended by section 5, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.23.350 are each amended to read as follows:

(1) This section shall be known as the standard nonforfeiture law <u>for life insurance</u>.

(2) Nonforfeiture provisions——Life: In the case of policies issued on or after the operative date of this section as defined in subsection (8), no policy of life insurance, except as stated in subsection (7), shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid–up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid–up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid–up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default.

(d) That, if the policy shall have become paid–up by completion of all premium payments or if it is continued under any paid–up nonforfeiture benefits which become effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid–up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid–up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

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

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

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

(3) Cash surrender value——Life: Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in subsections (5), (5a) and (5b) of this section corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within thirty days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(4) Paid-up nonforfeiture benefit——Life: Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then

provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(5) The adjusted premium——Life: Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (a) the then present value of the future guaranteed benefits provided for by the policy; (b) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (c) forty percent of the adjusted premium for the first policy year; (d) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: PROVIDED, That in applying the percentages specified in (c) and (d) above, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purpose of the changed policy.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy, providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (b), (c) and (d) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).

Except as otherwise provided in subsections (5a) and (5b) of this section, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table: PROVIDED, That for any category of ordinary insurance issued on female risks on or after July 1, 1957, adjusted premiums and present values may be calculated according to an age not more than ((~~three~~)) six years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: PROVIDED, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty percent of the rates of mortality according to such applicable table: PROVIDED FURTHER, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

(5a) In the case of ordinary policies issued on or after the operative date of this subsection (5a) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 16, 1973, and before the effective date of this 1979 act, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after the effective date of this 1979 act, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than ((~~three~~)) six years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

On or after June 11, 1959, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection, either as to designated ordinary policies or as to all ordinary policies issued by it, after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection as to such policies for such insurer), this subsection shall become operative with respect to such policies thereafter issued by such insurer. If an insurer makes no such election, or so elects to have this subsection apply as to certain of its ordinary policies only, the operative date of this subsection as to all of the ordinary policies issued by such insurer (other than those policies as to which the insurer has elected an earlier operative date as hereinabove provided) shall be January 1, 1966.

(5b) In the case of industrial policies issued on or after the operative date of this subsection (5b) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: PROVIDED, That such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies on or after July 16, 1973, and before the effective date of this 1979 act, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after the effective date of this 1979 act, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: PROVIDED, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table: PROVIDED FURTHER, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

After the effective date of this amendatory act of 1963, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1968.

(6) Calculation of values——Life: Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (3), (4), (5), (5a) and (5b) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (3) of this section, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (e) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(7) Exceptions: This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (5), (5a) and (5b) of this section, is less than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

(8) Operative date: After the effective date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before July 1, 1948. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer), this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be July 1, 1948.

** NEW SECTION. Sec. 5. There is added to chapter 48.23 RCW a new section to read as follows:*

(1) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

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

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(a) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8), and (10) of this section;

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8), and (10) of this section. The company shall reserve the right to defer the payment of the cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity or cash surrender or death benefits

that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

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

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

(4) The minimum values as specified in subsections (5), (6), (7), (8), and (10) of this section of any paid-up annuity or cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations, as defined in this subsection, paid prior to such time, decreased by the sum of:

(i) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(ii) The amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the *portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent.*

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

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

(ii) The annual contract charge shall be the lesser of (A) thirty dollars or (B) ten percent of the gross annual considerations.

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

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

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

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

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

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

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

(11) For any contract which provides within the same contract by rider or supplemental contract provision both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable (a) in the event of total and permanent

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

(12) After the effective date of this 1979 act, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date which is before the second anniversary of the effective date of this 1979 act. After the filing of the notice, then upon the specified date, which shall be the operative date of this section for the company, this section shall become operative with respect to annuity contracts thereafter issued by the company. If a company makes no such election, the operative date of this section for the company shall be the second anniversary of the effective date of this 1979 act.

***Sec. 5. was vetoed, see message at end of chapter.**

Passed the House February 20, 1979.
Passed the Senate March 2, 1979.
Approved by the Governor March 30, 1979, with the exception of Section 5, which is vetoed.
Filed in Office of Secretary of State March 30, 1979.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill No. 735 entitled:

"AN ACT Relating to insurance; amending section .12.15, chapter 79, Laws of 1947 as last amended by section 4, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.12.150; amending section 5, chapter 104, Laws of 1969 as amended by section 6, chapter 163, Laws of 1973 1st ex. sess. and RCW 48.18A.050; amending section .23.20, chapter 79, Laws of 1947 and RCW 48.23.200; amending section .23.35, chapter 79, Laws of 1947 as last amended by section 5, chapter 162, Laws of 1973 1st ex. sess. and RCW 48.23.350; and adding a new section to chapter 48-.23 RCW."

Section 5 of this bill would establish the "Standard Nonforfeiture Law for Individual Deferred Annuities" by enacting a model law adopted by the National Association of Insurance Commissioners. I agree that our current nonforfeiture statutes are in need of some revision. I also realize that there is real value in the adoption of identical laws in many states because the economies achieved thereby can benefit both insurance companies and consumers. However, Section 5 would allow nonforfeiture amounts to be far too low relative to the premiums paid and appears to treat the consumer less favorably than our present statute.

For these reasons, I have vetoed Section 5 of House Bill No. 735.

With the exception of Section 5 which I have vetoed, the remainder of House Bill No. 735 is approved."