

**PROPOSED AMENDMENTS TO
HOUSE BILL 2469**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; amending ORS 732.586, 733.302, 733.304, 733.316, 733.318,
3 743.204 and 743.215;”.

4 Delete lines 4 through 28 and delete pages 2 through 4 and insert:

5 **“SECTION 1. Sections 2 to 9 of this 2015 Act are added to and made
6 a part of the Insurance Code.**

7 **“SECTION 2. As used in sections 2 to 9 of this 2015 Act:**

8 **“(1) ‘Insurance group’ means insurers and affiliates within an in-
9 surance holding company system, as defined in ORS 732.548.**

10 **“(2) ‘Insurer’ has the meaning given that term in ORS 732.548.**

11 **“(3) ‘Own risk and solvency assessment’ means a confidential
12 internal assessment of the material and relevant risks associated with
13 an insurer’s or insurance group’s business plan and of the sufficiency
14 of capital resources to support the business plan that the insurer or
15 insurance group conducts and that is appropriate for the nature, scale
16 and complexity of the insurer or insurance group.**

17 **“(4) ‘Own Risk and Solvency Assessment Guidance Manual’ means
18 the Own Risk and Solvency Assessment Guidance Manual that the
19 National Association of Insurance Commissioners develops and adopts
20 and that the Director of the Department of Consumer and Business
21 Services by rule or order designates as guidance and standards for
22 completing an own risk and solvency assessment.**

1 “(5) ‘Own risk and solvency assessment summary report’ means a
2 confidential high-level summary of an insurer’s or insurance group’s
3 own risk and solvency assessment.

4 “SECTION 3. (1) Sections 2 to 9 of this 2015 Act provide:

5 “(a) Requirements for maintaining a risk management framework
6 and completing an own risk and solvency assessment; and

7 “(b) Guidance and instructions for filing an own risk and solvency
8 assessment summary report with the Director of the Department of
9 Consumer and Business Services.

10 “(2) Sections 2 to 9 of this 2015 Act apply to all insurers domiciled
11 in this state unless an insurer is exempt under section 7 of this 2015
12 Act.

13 “SECTION 4. An insurer shall maintain a risk management frame-
14 work to assist the insurer with identifying, assessing, monitoring,
15 managing and reporting on the insurer’s material and relevant risks.
16 The insurer satisfies this requirement if the insurance group of which
17 the insurer is a member maintains a risk management framework
18 applicable to the operations of the insurer.

19 “SECTION 5. (1) Subject to the provisions of section 7 of this 2015
20 Act, an insurer, or the insurance group of which the insurer is a
21 member, shall use a process that is comparable to the process de-
22 scribed in the Own Risk and Solvency Assessment Guidance Manual
23 to regularly conduct an own risk and solvency assessment. The
24 insurer, or the insurance group of which the insurer is a member,
25 shall conduct the assessment at least annually but also at any time
26 when significant changes occur in the risk profile of the insurer or
27 insurance group.

28 “(2) A change in the Own Risk and Solvency Assessment Guidance
29 Manual takes effect on a date that the Director of the Department of
30 Consumer and Business Services specifies.

1 **“SECTION 6. (1) At the request of the Director of the Department**
2 **of Consumer and Business Services, and not more than once each**
3 **year, an insurer shall submit to the director an own risk and solvency**
4 **assessment summary report, or any combination of reports that to-**
5 **gether contain the information described in the Own Risk and**
6 **Solvency Assessment Guidance Manual, for the insurer or the insur-**
7 **ance group of which the insurer is a member. If the insurer is a**
8 **member of an insurance group and the director is the lead state di-**
9 **rector for the insurance group, the insurer shall submit the own risk**
10 **and solvency assessment summary report or combination of reports**
11 **without waiting for a request from the director.**

12 **“(2) The insurer’s or insurance group’s chief risk officer, or another**
13 **executive who has responsibility for overseeing the insurer’s or insur-**
14 **ance group’s enterprise risk management process, shall attest in a**
15 **signed statement in the own risk and solvency assessment report that**
16 **to the best of the officer’s or executive’s belief and knowledge the**
17 **insurer applies the enterprise risk management process described in**
18 **the insurer’s own risk and solvency assessment summary report and**
19 **that a copy of the report has been provided to the insurer’s board of**
20 **directors or an appropriate committee of the board of directors.**

21 **“(3) An insurer may comply with subsection (1) of this section by**
22 **providing the most recent and substantially similar report that the**
23 **insurer or another member of an insurance group of which the insurer**
24 **is a member provided to the director of another state or to a supervi-**
25 **sor or regulator of a foreign jurisdiction, if the report provides infor-**
26 **mation that is comparable to the information described in the Own**
27 **Risk and Solvency Assessment Guidance Manual. An insurer that**
28 **submits a report that is written in a language other than English must**
29 **accompany the report with a translation of the report into the English**
30 **language.**

1 “(4) An insurer that must submit a report under this section shall
2 submit the report in accordance with a schedule the director estab-
3 lishes, unless the director for good cause shown extends the time for
4 submitting the report.

5 “SECTION 7. (1) An insurer is exempt from the requirements of
6 sections 2 to 9 of this 2015 Act if:

7 “(a) The insurer has annual direct written and unaffiliated assumed
8 premium of less than \$500 million, including international direct and
9 assumed premium but excluding premiums reinsured with the Federal
10 Crop Insurance Corporation and National Flood Insurance Program;
11 and

12 “(b) The insurance group of which the insurer is a member has
13 annual direct written and unaffiliated assumed premium of less than
14 \$1 billion, including international direct and assumed premium but
15 excluding premiums reinsured with the Federal Crop Insurance Cor-
16 poration and National Flood Insurance Program.

17 “(2) If an insurer is exempt under subsection (1)(a) of this section,
18 but the insurance group of which the insurer is a member is not ex-
19 empt under subsection (1)(b) of this section, the own risk and solvency
20 assessment summary report required under section 6 of this 2015 Act
21 must include every insurer within the insurance group. The insurer
22 may satisfy this requirement by submitting more than one own risk
23 and solvency assessment summary report for any combination of
24 insurers, if the combination of reports includes every insurer within
25 the insurance group.

26 “(3) If an insurer is not exempt under subsection (1)(a) of this sec-
27 tion but the insurance group of which the insurer is a member is ex-
28 empt under subsection (1)(b) of this section, the only own risk and
29 solvency assessment summary report required under section 6 of this
30 2015 Act is the report that applies to the insurer.

1 “(4) An insurer that is not exempt under subsection (1) of this sec-
2 tion may apply to the Director of the Department of Consumer and
3 Business Services for a waiver from the requirements of sections 2 to
4 9 of this 2015 Act based upon unique circumstances. In deciding
5 whether to grant the insurer’s request for a waiver, the director may
6 consider the type and volume of business the insurer writes, the
7 insurer’s ownership and organizational structure and any other factor
8 the director considers relevant to the insurer or insurance group of
9 which the insurer is a member. If the insurer is part of an insurance
10 group with insurers that are domiciled in more than one state, the
11 director shall coordinate with the lead state director and with the
12 other domiciliary directors in considering whether to grant the
13 insurer’s request for a waiver.

14 “(5) Notwithstanding the exemptions stated in this section, the di-
15 rector may require an insurer to maintain a risk management frame-
16 work, conduct an own risk and solvency assessment and file an own
17 risk and solvency assessment summary report:

18 “(a) Based on unique circumstances that include, but are not lim-
19 ited to, the type and volume of business the insurer writes, the
20 insurer’s ownership and organizational structure, federal agency re-
21 quests and international supervisor requests; or

22 “(b) If the insurer has risk-based capital that falls into company
23 action level, meets one or more of the standards the director estab-
24 lished under ORS 731.385 to determine whether an insurer is in haz-
25 ardous financial condition or otherwise exhibits qualities that the
26 director determines are characteristic of a troubled insurer.

27 “(6) If an insurer that was exempt under subsection (1) of this sec-
28 tion subsequently no longer qualifies for an exemption because of
29 changes in premium that are reflected in the insurer’s most recent
30 annual statement or in the most recent annual statements of insurers

1 within the insurance group of which the insurer is a member, the
2 insurer has one year after the date on which the insurer is no longer
3 exempt to comply with sections 2 to 9 of this 2015 Act.

4 **“SECTION 8. (1) Each insurer that must prepare an own risk and**
5 **solvency assessment summary report shall prepare the report consist-**
6 **ent with the current version of the Own Risk and Solvency Assessment**
7 **Guidance Manual, subject to the requirements of subsection (2) of this**
8 **section. The insurer shall maintain documentation and supporting in-**
9 **formation and make the documentation and supporting information**
10 **available when the Director of the Department of Consumer and**
11 **Business Services examines the insurer or at the director’s request.**

12 **“(2) The director shall review an own risk and solvency assessment**
13 **summary report, and make any additional requests for information,**
14 **using procedures currently used in analyzing and examining multi-**
15 **state or global insurers and insurance groups.**

16 **“SECTION 9. (1) All documents, materials or other information,**
17 **including any own risk and solvency assessment summary report, that**
18 **the Department of Consumer and Business Services possesses or con-**
19 **trols, that the Director of the Department of Consumer and Business**
20 **Services obtained or created or that were otherwise disclosed to the**
21 **director or any other person in the course of implementing sections 2**
22 **to 9 of this 2015 Act are confidential, are subject to the provisions of**
23 **ORS 705.137, 705.138, 705.139 and 731.312 and are not subject to disclo-**
24 **sure under ORS 192.410 to 192.505.**

25 **“(2) Notwithstanding subsection (1) of this section, the director**
26 **may:**

27 **“(a) Use the documents, materials or other information in any**
28 **regulatory or legal action the director brings as a part of the director’s**
29 **official duties.**

30 **“(b) Share documents, materials or other information related to an**

1 own risk and solvency assessment, including confidential documents
2 and information, only:

3 “(A) As provided in ORS 705.138 and 705.139 in response to a request
4 from a chief insurance regulatory official, the National Association
5 of Insurance Commissioners or a state, federal, foreign or interna-
6 tional law enforcement agency; and

7 “(B) After receiving written consent from the affected insurer.

8 “(c) Share documents or materials or other information related to
9 an own risk and solvency assessment with any third-party consultants
10 the director designates, but only if the consultant:

11 “(A) Agrees in writing to keep the documents, materials or other
12 information confidential; and

13 “(B) Demonstrates in writing and to the director’s satisfaction that
14 the consultant has the capacity and legal authority to keep the docu-
15 ments, materials or other information confidential.

16 “(3) In addition to the requirements of ORS 705.137, 705.138 and
17 731.312, the director shall enter into a written agreement with the
18 National Association of Insurance Commissioners or a third-party
19 consultant that:

20 “(a) Prohibits the National Association of Insurance Commissioners
21 or a third-party consultant from storing the information the director
22 or the department shares under sections 2 to 9 of this 2015 Act in a
23 permanent database after the underlying analysis is complete; and

24 “(b) Requires that an affected insurer must give written consent
25 before a third-party consultant may disclose any documents, material
26 or information the director or the department shares under sections
27 2 to 9 of this 2015 Act.

28 “SECTION 10. Sections 11 to 20 of this 2015 Act are added to and
29 made a part of ORS 733.300 to 733.322.

30 “SECTION 11. As used in sections 11 to 20 of this 2015 Act:

1 “(1) ‘Accident and health insurance’ means a contract that incor-
2 porates morbidity risk and provides protection against economic loss
3 that results from accident, sickness or a medical condition.

4 “(2) ‘Appointed actuary’ means a qualified actuary that an insurer
5 appoints in accordance with the valuation manual to prepare the
6 actuarial opinion required under section 13 of this 2015 Act.

7 “(3) ‘Deposit-type contract’ means a contract that does not incor-
8 porate mortality or morbidity risks.

9 “(4) ‘Insurer’ means an entity that has:

10 “(a) Written, issued or reinsured life insurance contracts, accident
11 and health insurance contracts or deposit-type contracts in this state
12 and has at least one life insurance contract, accident and health in-
13 surance contract or deposit-type contract in force or on claim; or

14 “(b) Written, issued or reinsured life insurance contracts, accident
15 and health insurance contracts or deposit-type contracts in any state
16 and that must hold a certificate of authority to write life insurance,
17 accident and health insurance or deposit-type contracts in this state.

18 “(5) ‘Life insurance’ means a contract that incorporates mortality
19 risk, including an annuity contract and a pure endowment contract.

20 “(6) ‘Operative date of the valuation manual’ means the date on
21 which the Director of the Department of Consumer and Business Ser-
22 vices adopts the valuation manual by rule in accordance with section
23 16 of this 2015 Act.

24 “(7) ‘Principle-based valuation’ means a reserve valuation that uses
25 one or more methods or one or more assumptions that the insurer
26 determines and that must comply with section 17 of this 2015 Act as
27 specified in the valuation manual.

28 “(8) ‘Qualified actuary’ means an individual who:

29 “(a) Is qualified to sign the applicable statement of actuarial opin-
30 ion in accordance with standards that the director establishes by rule,

1 taking into consideration standards that the American Academy of
2 Actuaries establishes for actuaries that sign statements of actuarial
3 opinion; and

4 “(b) Meets the requirements set forth in the valuation manual.

5 “(9) ‘Reserves’ means reserve liabilities.

6 “(10) ‘Valuation manual’ means the manual of valuation in-
7 structions that the director adopts in accordance with section 16 of
8 this 2015 Act.

9 **“SECTION 12. (1) The Director of the Department of Consumer and**
10 **Business Services each year shall value, or cause to be valued, the**
11 **reserve liabilities for all outstanding accident and health contracts,**
12 **annuity and pure endowment contracts, deposit-type contracts and life**
13 **insurance contracts that every insurer issues on or after the operative**
14 **date of the valuation manual.**

15 “(2) In lieu of valuing or causing a valuation of the reserves re-
16 quired of any foreign or alien insurer, the director may accept any
17 valuation that the insurance supervisory official of any state or other
18 jurisdiction makes or causes to be made if the valuation complies with
19 the minimum standard under the Standard Valuation Law.

20 “(3) The provisions set forth in sections 15 to 17 of this 2015 Act
21 apply to all policies and contracts that insurers issue on or after the
22 operative date of the valuation manual.

23 **“SECTION 13. (1)(a) Every insurer that has outstanding accident**
24 **and health insurance contracts, deposit-type contracts or life insur-**
25 **ance contracts in this state and is subject to regulation by the Director**
26 **of the Department of Consumer and Business Services shall annually**
27 **submit to the director the opinion of an appointed actuary as to**
28 **whether the reserves and related actuarial items the insurer holds in**
29 **support of the policies and contracts are computed appropriately, are**
30 **based on assumptions that satisfy contractual provisions, are consist-**

1 ent with prior reported amounts and comply with applicable laws of
2 this state. The opinion must comply with the specific standards and
3 scope set forth in the valuation manual and must:

4 “(A) Meet the specifications for form and substance set forth in the
5 valuation manual and otherwise be acceptable to the director.

6 “(B) Accompany an annual statement that reflects the valuation
7 of reserve liabilities for each year that ends on or after the operative
8 date of the valuation manual.

9 “(C) Apply to all policies and contracts that are subject to sub-
10 section (2) of this section, plus other actuarial liabilities that the val-
11 uation manual may specify.

12 “(D) Be based on standards that the Actuarial Standards Board
13 adopts, or that a successor to the Actuarial Standards Board adopts,
14 and on any other additional standards that the valuation manual pre-
15 scribes and that the director adopts by rule.

16 “(b) The director may accept an opinion that a foreign or alien
17 insurer filed with the insurance supervisory official of another state
18 as the opinion the foreign or alien insurer must submit under this
19 section if the director determines that the opinion reasonably meets
20 the requirements that apply to an insurer domiciled in this state.

21 “(2)(a) Every insurer that has outstanding accident and health in-
22 surance contracts, deposit-type contracts or life insurance contracts
23 in this state, that is subject to regulation by the director and that is
24 not exempted in the valuation manual shall include in the opinion
25 required under subsection (1) of this section an opinion of the same
26 appointed actuary as to whether the reserves and related actuarial
27 items the insurer holds in support of the policies and contracts speci-
28 fied in the valuation manual, when considered in light of the assets
29 the insurer holds with respect to the reserves and related actuarial
30 items, including but not limited to investment earnings on the assets

1 and the considerations the insurer expects to receive and retain under
2 the policies and contracts, provide adequately for the insurer's obli-
3 gations under the policies and contracts, including but not limited to
4 the benefits under and expenses associated with the policies and con-
5 tracts.

6 “(b) For each opinion that an insurer submits under paragraph (a)
7 of this subsection, the insurer shall support the opinion with a mem-
8 orandum that meets the specifications for form and substance set
9 forth in the valuation manual and that is otherwise acceptable to the
10 director. If the insurer fails to provide a supporting memorandum at
11 the director's request within a period specified in the valuation man-
12 ual, or if the director determines that the supporting memorandum
13 the insurer provides fails to meet the standards prescribed by the
14 valuation manual or is otherwise unacceptable, the director may en-
15 gage a qualified actuary at the insurer's expense to review the opinion
16 and the basis for the opinion and to prepare the supporting memo-
17 randum the director requires.

18 “(3) Except in cases of fraud or willful misconduct, the appointed
19 actuary is not liable for damages to any person other than the insurer
20 and the director for any act, error, omission, decision or conduct with
21 respect to the appointed actuary's opinion.

22 “(4) The director shall take any disciplinary action against an
23 insurer or an appointed actuary in accordance with rules the director
24 adopts.

25 **“SECTION 14.** For accident and health insurance contracts issued
26 on or after the operative date of the valuation manual, the standard
27 prescribed in the valuation manual is the minimum standard of valu-
28 ation required under section 12 of this 2015 Act. The Director of the
29 Department of Consumer and Business Services by rule shall adopt the
30 minimum standard of valuation for disability, accident and sickness,

1 accident and health insurance contracts issued on or after the opera-
2 tive date stated in ORS 743.204 (2) for the Standard Nonforfeiture Law
3 for Life Insurance and before the operative date of the valuation
4 manual.

5 **“SECTION 15. (1) Except as provided in subsection (2) or (4) of this**
6 **section, for policies issued on or after the operative date of the valu-**
7 **ation manual, the standard prescribed in the valuation manual is the**
8 **minimum standard of valuation required under section 12 of this 2015**
9 **Act.**

10 **“(2) In the absence of a specific valuation requirement, or if a spe-**
11 **cific valuation requirement in the valuation manual does not, in the**
12 **opinion of the Director of the Department of Consumer and Business**
13 **Services, comply with the Standard Valuation Law, the insurer shall**
14 **comply with minimum valuation standards the director adopts by rule.**

15 **“(3) The director may engage a qualified actuary at the insurer’s**
16 **expense to perform an actuarial examination of the insurer and to is-**
17 **sue an opinion as to the appropriateness of any reserve assumption**
18 **or method the insurer uses, or to review and issue an opinion as to**
19 **an insurer’s compliance with any requirement set forth in the Stand-**
20 **ard Valuation Law. With respect to provisions in the Standard Valu-**
21 **ation Law, the director may rely on the opinion of a qualified actuary**
22 **that the director of another state, district or territory of the United**
23 **States employs, contracts with or otherwise engages.**

24 **“(4) The director may require an insurer to change any assumption**
25 **or method that, in the director’s opinion, is necessary to comply with**
26 **the requirements of the valuation manual or the Standard Valuation**
27 **Law. The insurer shall adjust the reserves as the director requires.**
28 **The director may take other disciplinary action in accordance with the**
29 **requirements for a contested case proceeding under ORS 183.**

30 **“SECTION 16. (1) The Director of the Department of Consumer and**

1 **Business Services shall prescribe the form of the valuation manual.**
2 **The director shall consider and may prescribe the valuation manual**
3 **or other form that the National Association of Insurance Commis-**
4 **sioners establishes, including instructions that the National Associ-**
5 **ation of Insurance Commissioners prepares for complying with the**
6 **valuation manual. If the director adopts the valuation manual and**
7 **instructions that the National Association of Insurance Commission-**
8 **ers establishes, an insurer that submits the opinion required under**
9 **section 13 of this 2015 Act must complete the opinion according to the**
10 **instructions. The director may require the insurer to file information**
11 **in addition to the information required in the valuation manual.**

12 **“(2) The director shall adopt the valuation manual and specify the**
13 **operative date of the valuation manual as January 1 of the first cal-**
14 **endar year after the first July 1 in which the director determines that**
15 **all of the following have occurred:**

16 **“(a) The National Association of Insurance Commissioners adopted**
17 **the valuation manual with an affirmative vote of at least 42 members,**
18 **or three-fourths of the members voting, whichever is greater.**

19 **“(b) States that represent 75 percent of the direct premiums written**
20 **as reported in the annual statements submitted in 2008 for accident**
21 **and health, fraternal, health or life insurance have enacted the**
22 **Standard Valuation Law, as amended by the National Association of**
23 **Insurance Commissioners in 2009, or legislation that includes sub-**
24 **stantially similar terms and provisions.**

25 **“(c) At least 42 of the 50 states of the United States and the juris-**
26 **dictions of American Samoa, the American Virgin Islands, the District**
27 **of Columbia, Guam and Puerto Rico have enacted the Standard Valu-**
28 **ation Law, as amended by the National Association of Insurance**
29 **Commissioners in 2009, or legislation that includes substantially simi-**
30 **lar terms and provisions.**

1 **“(3) Unless a change in the valuation manual specifies a later ef-**
2 **fective date, changes to the valuation manual are effective on the date**
3 **the director specifies in adopting the change. In determining the ef-**
4 **fective date of a change to the valuation manual, the director may**
5 **specify the effective date as January 1 of the first calendar year after**
6 **the National Association of Insurance Commissioners has adopted the**
7 **change to the valuation manual with an affirmative vote that repres-**
8 **ents:**

9 **“(a) At least three-fourths of the members of the National Associ-**
10 **ation of Insurance Commissioners voting, but not less than a majority**
11 **of the total membership; and**

12 **“(b) Members of the National Association of Insurance Commis-**
13 **sioners who represent jurisdictions totaling more than 75 percent of**
14 **the direct premiums written as reported in the annual statements**
15 **submitted for accident and health, fraternal, health or life insurance**
16 **that were most recently available before the vote described in para-**
17 **graph (a) of this subsection.**

18 **“(4) The valuation manual must specify all of the following:**

19 **“(a) Minimum valuation standards for, and definitions of, the poli-**
20 **cies or contracts that are subject to section 12 of this 2015 Act. The**
21 **minimum valuation standards must be:**

22 **“(A) The director’s reserve valuation method for life insurance**
23 **contracts, other than annuity contracts, that are subject to section**
24 **12 of this 2015 Act;**

25 **“(B) The director’s annuity reserve valuation method for annuity**
26 **contracts that are subject to section 12 of this 2015 Act; and**

27 **“(C) Minimum reserves for all other policies or contracts that are**
28 **subject to section 12 of this 2015 Act.**

29 **“(b) Policies or contracts or types of policies or contracts that are**
30 **subject to the requirements of a principle-based valuation under sec-**

1 **tion 17 of this 2015 Act and the minimum valuation standards that are**
2 **consistent with the requirements.**

3 **“(c) For policies and contracts that are subject to a principle-based**
4 **valuation under section 17 of this 2015 Act:**

5 **“(A) Requirements for the format of reports to the director under**
6 **section 17 (3)(c) of this 2015 Act and information that is necessary to**
7 **determine if the valuation is appropriate and complies with the**
8 **Standard Valuation Law;**

9 **“(B) Assumptions for risks over which the insurer does not have**
10 **significant control or influence; and**

11 **“(C) Procedures for corporate governance and oversight of the**
12 **actuarial function, and a process for waiving or modifying the proce-**
13 **dures in appropriate cases.**

14 **“(d) For policies that are not subject to a principle-based valuation**
15 **under section 17 of this 2015 Act, that the minimum valuation standard**
16 **must:**

17 **“(A) Be consistent with the minimum standard of valuation before**
18 **the operative date of the valuation manual; or**

19 **“(B) Specify reserves that quantify the benefits, guarantees and**
20 **funding associated with the contracts and the contracts’ risks at a**
21 **level of conservatism that reflects conditions that include unfavorable**
22 **events that have a reasonable probability of occurring.**

23 **“(e) The data and the form of the data required under section 18**
24 **of this 2015 Act, to whom the data must be submitted and any related**
25 **items, including data analyses and reporting of analyses, that may be**
26 **required.**

27 **“(f) Other requirements that include, but are not limited to, re-**
28 **quirements that relate to reserve methods, models for measuring risk,**
29 **generation of economic scenarios, assumptions, margins, use of**
30 **insurer experience, risk measurement, disclosure, certifications, re-**

1 ports, actuarial opinions and memorandums, transition rules and
2 internal controls.

3 **“SECTION 17. (1) As used in this section, ‘tail risk’ means a risk**
4 **that occurs either when the frequency of low probability events is**
5 **higher than expected under a normal probability distribution or when**
6 **there are observed events of very significant size or magnitude.**

7 **“(2) An insurer must establish reserves using a principle-based val-**
8 **uation that requires for policies or contracts, as specified in the valu-**
9 **ation manual:**

10 **“(a) A quantification of the benefits, guarantees and funding asso-**
11 **ciated with the contracts and the contracts’ risks at a level of con-**
12 **servatism that reflects conditions that include unfavorable events that**
13 **have a reasonable probability of occurring during the lifetime of the**
14 **contracts. For policies or contracts with significant tail risk, the valu-**
15 **ation must quantify the tail risk by including appropriately adverse**
16 **conditions.**

17 **“(b) Assumptions, risk analysis methods, financial models and**
18 **management techniques that are consistent with, but not necessarily**
19 **identical to, assumptions, risk analysis methods, financial models and**
20 **management techniques that the insurer uses within the insurer’s**
21 **overall risk assessment process, while recognizing potential differences**
22 **in financial reporting structures and any prescribed assumptions or**
23 **methods.**

24 **“(c) Assumptions that are derived from:**

25 **“(A) A prescription in the valuation manual; or**

26 **“(B) If the valuation manual does not have a prescription, from**
27 **other methods that are established using:**

28 **“(i) The insurer’s available experience, to the extent that the**
29 **insurer’s experience is relevant and statistically credible; or**

30 **“(ii) Other relevant, statistically credible experience if the insurer’s**

1 experience is not available, relevant or statistically credible.

2 “(d) Margins for uncertainty, including adverse deviation and esti-
3 mation error, such that the greater the uncertainty the larger the
4 margin and resulting reserve.

5 “(3) An insurer that uses a principle-based valuation for one or
6 more policies or contracts that are subject to this section, as specified
7 in the valuation manual, shall:

8 “(a) Establish procedures for corporate governance and for over-
9 seeing the actuarial valuation function that are consistent with the
10 procedures described in the valuation manual.

11 “(b) Provide to the Director of the Department of Consumer and
12 Business Services and the insurer’s board of directors an annual cer-
13 tification of the effectiveness of internal controls with respect to the
14 principle-based valuation. The controls must be designed to ensure
15 that all material risks inherent in the liabilities and associated assets
16 that are subject to the valuation are included in the valuation, and
17 that the insurer makes valuations in accordance with the valuation
18 manual. The insurer shall base the certification on the controls that
19 are in place as of the end of the preceding calendar year.

20 “(c) Develop, and file with the director upon request, a principle-
21 based valuation report that complies with standards prescribed in the
22 valuation manual.

23 “(4) A principle-based valuation may include a prescribed formulaic
24 reserve component.

25 “SECTION 18. An insurer shall submit mortality, morbidity,
26 policyholder behavior or expense experience and other data as pre-
27 scribed in the valuation manual to the Director of the Department of
28 Consumer and Business Services. As used in this section, ‘policyholder
29 behavior’ means any action that a policyholder, a contract holder or
30 any other person with the right to elect options, such as a certificate

1 holder, may take under a policy or contract that is subject to ORS
2 733.300 to 733.322, including but not limited to lapse, withdrawal,
3 transfer, deposit, premium payment, loan, annuitization or benefit
4 elections that the policy or contract prescribes but excluding events
5 of mortality or morbidity that result in benefits the essential aspects
6 of which the terms of the policy or contract prescribe.

7 **SECTION 19.** (1) As used in this section, ‘confidential
8 information’ means:

9 “(a) A memorandum in support of an opinion submitted under ORS
10 733.304 or section 13 of this 2015 Act and any other documents, mate-
11 rials and other information including, but not limited to, all working
12 papers and copies of working papers that are created, produced or ob-
13 tained by or disclosed to the Director of the Department of Consumer
14 and Business Services or any other person in connection with the
15 memorandum.

16 “(b) All documents, materials and other information including, but
17 not limited to, all working papers and copies of working papers that
18 are created, produced or obtained by or disclosed to the director or any
19 other person in the course of an examination under section 15 of this
20 2015 Act, except that if an examination report or other material that
21 is prepared in connection with an examination under ORS 731.312 is
22 not held as private and confidential information under ORS 731.312,
23 an examination report or other material that is prepared in connection
24 with an examination under section 15 (3) of this 2015 Act is confidential
25 information to the same extent as the examination report or other
26 material that was prepared under ORS 731.312.

27 “(c) Any reports, documents, materials or other information that
28 an insurer develops in support of, or in connection with, the annual
29 certification the insurer submits under section 17 (3)(b) of this 2015
30 Act to evaluate the effectiveness of the insurer’s internal controls with

1 respect to a principle-based valuation and any other documents, ma-
2 terials and other information including, but not limited to, all working
3 papers and copies of working papers that are created, produced or ob-
4 tained by or disclosed to the director or any other person in con-
5 nection with the reports, documents, materials and other information.

6 “(d) Any principle-based valuation report developed under section
7 17 (3)(c) of this 2015 Act and any other documents, materials and other
8 information including, but not limited to, all working papers and
9 copies of working papers that are created, produced or obtained by or
10 disclosed to the director or any other person in connection with the
11 report.

12 “(e) Any documents, materials, data and other information that an
13 insurer submits under section 18 of this 2015 Act and any other docu-
14 ments, materials, data and other information including, but not lim-
15 ited to, all working papers and copies of working papers that are
16 created or produced in connection with the materials, data and other
17 information, to the extent that the documents, materials, data, infor-
18 mation and working papers include information that identifies the
19 insurer or could be used to identify a particular person, if the docu-
20 ments, materials data or other information and the working papers
21 are provided to or obtained by or disclosed to the director or any other
22 person in connection or compliance with the provision of section 18
23 of this 2015 Act.

24 “(2)(a) Except as provided in this section, an insurer’s confidential
25 information is confidential by law and privileged as provided in ORS
26 705.137, 705.138 and 705.139, and is not subject to ORS 192.410 to 192.505.

27 “(b) The director may share confidential information of the type
28 defined in subsection (1)(a) or (d) of this section with state, federal and
29 international law enforcement officials and with the Actuarial Board
30 for Counseling and Discipline or a successor to the Actuarial Board for

1 **Counseling and Discipline, including the employees, agents, consult-**
2 **ants and contractors of the board or law enforcement agency, if:**

3 **“(A) The director receives a request that states that the confiden-**
4 **tial information is necessary for the purpose of professional discipli-**
5 **nary proceedings; and**

6 **“(B) The person from which the director receives the request has**
7 **the legal authority to agree, and does agree, to maintain the**
8 **confidentiality of and provide a privilege for the documents, materials,**
9 **data and other information in the same manner and to the same ex-**
10 **tent that the director must maintain the confidentiality of and privi-**
11 **lege provided for the documents, materials, data and other**
12 **information under this section.**

13 **“(c) The director may receive documents, materials, data and other**
14 **information, including otherwise confidential and privileged docu-**
15 **ments, materials, data or information, from the Actuarial Board for**
16 **Counseling and Discipline or a successor to the Actuarial Board for**
17 **Counseling and Discipline and shall maintain the confidentiality of and**
18 **provide a privilege for any document, material, data or other infor-**
19 **mation the director receives with the understanding that the docu-**
20 **ment, material or other information is confidential or privileged under**
21 **the laws of the jurisdiction that is the source of the document, mate-**
22 **rial or other information.**

23 **“(3) Notwithstanding subsection (2) of this section:**

24 **“(a) The director may release confidential information of the type**
25 **defined in subsection (1)(a) or (d) of this section:**

26 **“(A) In response to a subpoena for the purpose of defending an**
27 **action that seeks damages from the appointed actuary who prepares**
28 **a memorandum in support of an opinion that an insurer submits under**
29 **ORS 733.304 or section 13 of this 2015 Act, or a principle-based valu-**
30 **ation report that the insurer developed under section 17 of this 2015**

1 Act, if the confidential information is subject to subpoena under an
2 action required under ORS 733.300 to 733.322 or under a rule the di-
3 rector adopts under ORS 733.300 to 733.322; or

4 “(B) With the written consent of the insurer.

5 “(b) Confidential information of the type defined in subsection (1)(a)
6 or (d) of this section is no longer confidential if an insurer cites in the
7 insurer’s marketing, volunteers publicly to or before a government
8 agency other than the Department of Consumer and Business Services
9 or an equivalent agency in another state or the employees, agents,
10 consultants or contractors of the department or agency, or releases
11 to the news media any portion of a memorandum in support of an
12 opinion the insurer submitted under section 13 of this 2015 Act or a
13 principle-based valuation report the insurer developed under section
14 17 of this 2015 Act.

15 **“SECTION 20. (1) Specific product forms or product lines of a do-**
16 **mestic insurer that is licensed in and does business only in this state**
17 **are exempt from the requirements of section 15 of this 2015 Act if:**

18 “(a) The Director of the Department of Consumer and Business
19 Services issues the exemption to the insurer in writing and does not
20 subsequently revoke the exemption in writing;

21 “(b) The director identifies the specific product form or product line
22 in the written exemption; and

23 “(c) The insurer computes reserves using assumptions and methods
24 the insurer used before the operative date of the valuation manual and
25 otherwise complies with any requirements the director specifies by
26 rule.

27 “(2) ORS 733.304, 733.306, 733.308, 733.310, 733.312, 733.314, 733.316,
28 733.318, 733.320 and 733.322 and sections 13 and 14 of this 2015 Act apply
29 to an insurer that has an exemption under this section.

30 **“SECTION 21. ORS 732.586 is amended to read:**

1 “732.586. (1) All information, documents and copies of information or
2 documents obtained by or disclosed to the Director of the Department of
3 Consumer and Business Services or any other person in the course of an
4 examination or investigation under ORS 732.584 are subject to the provisions
5 of ORS 731.312.

6 “(2) All information reported in accordance with ORS 732.552, 732.554,
7 **732.569**, 732.574 and 732.576 **and section 6 of this 2015 Act** is confidential
8 and may not be made public except as provided in this subsection. The di-
9 rector may disclose reported information only as provided in ORS 705.137 or
10 only if:

11 “(a) The director obtains the prior written consent of the insurer to which
12 the reported information pertains; or

13 “(b) The director, after giving the insurer and the insurer’s affiliates that
14 would be affected by the disclosure notice and opportunity to be heard, de-
15 termines that disclosing the information will serve the interest of
16 policyholders, shareholders or the public. If the director determines that
17 disclosing the information will serve one or more of such interests, the di-
18 rector may publish all or any part of the information in any manner that the
19 director determines is appropriate.

20 “(3) The director’s sharing of information under ORS 732.517 to 732.592
21 does not delegate regulatory or rulemaking authority. The director is solely
22 responsible for administering, executing and enforcing ORS 732.517 to
23 732.592.

24 “**SECTION 22.** ORS 733.302 is amended to read:

25 “733.302. (1) The Director of the Department of Consumer and Business
26 Services shall annually value, or cause to be valued, the reserve liabilities
27 for all outstanding life insurance policies and annuity and pure endowment
28 contracts [of] **that** every life insurer doing business in this state[, *and may*
29 *certify the amount of any such reserves, specifying the mortality table or tables,*
30 *rate or rates of interest, and methods, net level premium method or other, used*

1 *in the calculations of such reserves. For purposes of ORS 733.300 to 733.322,*
2 *reserve liabilities shall be referred to as reserves.] issued on or after the*
3 **operative date stated in ORS 743.204 for the Standard Nonforfeiture**
4 **Law for Life Insurance and before the operative date of the valuation**
5 **manual.**

6 “(2) In calculating reserves, the director may use group methods and ap-
7 proximate averages for fractions of a year or otherwise.

8 “(3) In lieu of the valuation of the reserves required of any foreign or
9 alien insurer under the Standard Valuation Law, the director may accept any
10 valuation [*made, or caused to be made, by*] **that** the insurance supervisory
11 official of any state or other jurisdiction [*when*] **makes or causes to be**
12 **made if** the valuation complies with the minimum standard provided under
13 the Standard Valuation Law [*and if the official of the state or jurisdiction*
14 *accepts as sufficient and for all valid legal purposes the certificate of valuation*
15 *of the director when the certificate states the valuation to have been made in*
16 *a specified manner according to which the aggregate reserves would be at least*
17 *as large as if they had been computed in the manner prescribed by the law of*
18 *that state or jurisdiction*].

19 **“SECTION 23.** ORS 733.304 is amended to read:

20 “733.304. (1) Each insurer [*transacting*] **that transacts** life insurance in
21 this state shall submit annually to the Director of the Department of Con-
22 sumer and Business Services the opinion of a qualified actuary as provided
23 in this section. The following provisions apply with respect to **all** opinions
24 required under this [*subsection*] **section:**

25 “(a) The opinion must state whether, in the opinion of the qualified
26 actuary, the reserves and related actuarial items [*held*] **the insurer holds**
27 in support of the policies and contracts specified by the director by rule are
28 computed appropriately, are based on assumptions that satisfy contractual
29 provisions, are consistent with prior reported amounts and comply with ap-
30 plicable laws of this state. The director by rule shall establish the specific

1 requirements for the opinion and may require any other items that the di-
2 rector determines to be necessary to *[its]* **the opinion's** scope.

3 “(b) The opinion *[shall]* **must** be submitted with *[the]* **an** annual state-
4 ment *[reflecting]* **that reflects** the valuation of the reserve liabilities for
5 each year.

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

9 “(d) The director by rule:

10 “(A) Shall adopt standards on which actuarial opinions under this sub-
11 section must be based. In adopting the standards, the director shall consider
12 standards *[established from time to time by]* **that** the Actuarial Standards
13 Board of the American Academy of Actuaries **establishes from time to**
14 **time.**

15 “(B) Shall define ‘qualified actuary’ for purposes of this subsection, by
16 establishing qualifications required of an actuary for the purpose of giving
17 the opinions. In establishing the definition, the director shall consider stan-
18 dards *[established from time to time by]* **that** the American Academy of
19 Actuaries **establishes from time to time.**

20 “(C) May also adopt any other rules needed for carrying out this sub-
21 section.

22 “(e) *[In the case of an opinion required to be submitted by a foreign or alien*
23 *insurer,]* The director may accept the opinion *[filed by the]* **that a foreign**
24 **or alien** insurer *[with]* **submitted to** the insurance supervisory official of
25 another state **as the opinion that the foreign or alien insurer must**
26 **submit under this section** if the director determines that the opinion rea-
27 sonably meets the requirements *[applicable to]* **that apply to** a domestic
28 insurer.

29 “(f) Except in cases of fraud or willful misconduct, a qualified actuary
30 *[shall not be]* **is not** liable for damages to any person other than the insurer

1 or the director for any act, error, omission, decision or conduct with respect
2 to the actuary's opinion.

3 “[g] *For each opinion submitted under this subsection, a memorandum*
4 *shall be prepared supporting the opinion. The memorandum must conform in*
5 *form and substance to requirements established by the director by rule.*]

6 “[h] *If an insurer fails to provide a supporting memorandum within the*
7 *period specified by rule or if the director determines that the supporting*
8 *memorandum provided by the insurer fails to meet the standards prescribed*
9 *by rule or is otherwise unacceptable to the director, the director may engage*
10 *a qualified actuary at the expense of the insurer to review the opinion and the*
11 *basis for the opinion and prepare any supporting memorandum that is required*
12 *by the director.*]

13 “[i] **(g)** Except as provided in this paragraph, a memorandum in the
14 possession or control of the director that is in support of an actuarial opin-
15 ion, and any other material [*provided by*] the insurer **provides** to the director
16 in connection with the memorandum, is confidential as provided in ORS
17 705.137. Notwithstanding ORS 705.137, [*such a*] **the** memorandum and other
18 materials are subject to subpoena only for the purpose of defending an action
19 seeking damages from the actuary submitting the memorandum by reason of
20 any action required by this section or by rules adopted under this section.
21 Once **the insurer cites** any portion of the confidential memorandum [*is cited*
22 *by the insurer in its*] **in the insurer's** marketing or [*is cited*] before any
23 governmental agency other than a state insurance department or [*is released*
24 *by*] the insurer **releases the confidential memorandum** to the news media,
25 all portions of the confidential memorandum [*shall be*] **are** no longer confi-
26 dential. In addition to the uses and disclosures allowed under ORS 705.137,
27 **the director may otherwise release** a memorandum or other material [*may*
28 *otherwise be released by the director*]:

29 “(A) With the written consent of the insurer; or

30 “(B) To the American Academy of Actuaries upon request thereof,

1 [when] **if** the request states that the memorandum or other material is re-
2 quired for the purpose of professional disciplinary proceedings and sets forth
3 procedures satisfactory to the director for preserving the confidentiality of
4 the memorandum or other material.

5 “[*j*] **(h) The director shall define** grounds for **the director’s** discipli-
6 nary action [*by the director*] against the insurer or the qualified actuary
7 [*shall be defined*] by rule.

8 “(2) Unless exempted by the director by rule, each insurer transacting life
9 insurance in this state shall include in each opinion required by subsection
10 (1) of this section an opinion by the same actuary who prepared the opinion
11 required by subsection (1) of this section. The following provisions apply
12 with respect to the opinion:

13 “**(a) The insurer shall support the opinion with a memorandum that**
14 **conforms in form and substance to requirements the director estab-**
15 **lishes by rule. If an insurer fails to provide a supporting memorandum**
16 **within the period specified by rule or if the director determines that**
17 **the supporting memorandum that the insurer provides fails to meet**
18 **the standards prescribed by rule or is otherwise unacceptable to the**
19 **director, the director may engage a qualified actuary at the insurer’s**
20 **expense to review the opinion and the basis for the opinion and to**
21 **prepare any supporting memorandum the director requires.**

22 “[*a*] **(b) The actuary shall state the actuary’s opinion as to whether the**
23 reserves and related actuarial items [*held*] **the insurer holds** in support of
24 the policies and contracts [*specified by*] the director **specifies** by rule, when
25 considered in light of the assets [*held by*] the insurer **holds** with respect to
26 the reserves and related actuarial items, including but not limited to the
27 investment earnings on the assets and the considerations [*anticipated to be*
28 *received and retained*] **the insurer expects to receive and retain** under the
29 policies and contracts, [*make adequate provision*] **provide adequately** for the
30 insurer’s obligations under the policies and contracts, including but not

1 limited to the benefits under and expenses associated with the policies and
2 contracts.

3 “[*b*] (c) The director may provide by rule for a transition period for es-
4 tablishing any higher reserves that the actuary may deem necessary in order
5 to render the opinion required under this subsection.

6 “**SECTION 24.** ORS 733.316 is amended to read:

7 “733.316. (1) The aggregate reserves of an insurer for all life insurance
8 policies, excluding disability and accidental death benefits, issued on or after
9 the operative date stated in ORS 743.204 for the Standard Nonforfeiture Law
10 for Life Insurance, [*shall*] **may** not be less than the aggregate reserves cal-
11 culated in accordance with the methods set forth in ORS 733.312, 733.314,
12 733.320 and 733.322 and the mortality table or tables and rate or rates of
13 interest used in calculating nonforfeiture benefits for such policies.

14 “(2) The aggregate reserves of an insurer for all policies, contracts and
15 benefits [*shall*] **may** not be less than the aggregate reserves [*determined by*
16 *the qualified*] **that the appointed** actuary **determines** to be necessary to
17 render the opinion required by ORS 733.304.

18 “**SECTION 25.** ORS 733.318 is amended to read:

19 “733.318. (1) Reserves for [*all*] policies and contracts issued prior to the
20 operative date stated in ORS 743.204 for the Standard Nonforfeiture Law for
21 Life Insurance may be calculated, at the option of the insurer, according to
22 any standards that produce greater aggregate reserves for all such policies
23 and contracts than the minimum reserves required by the laws in effect im-
24 mediately prior to the operative date.

25 “(2) Reserves for any category of policies, contracts or benefits as estab-
26 lished by the Director of the Department of Consumer and Business Services,
27 issued on or after the operative date stated in ORS 743.204 for the Standard
28 Nonforfeiture Law for Life Insurance, may be calculated, at the option of the
29 insurer, according to any standards that produce greater aggregate reserves
30 for the category than those calculated according to the minimum standard

1 provided in ORS 733.300 to 733.322, but the rate or rates of interest used for
2 policies and contracts, other than annuity and pure endowment contracts,
3 *[shall]* **may** not be *[higher]* **greater** than the corresponding rate or rates of
4 interest used in calculating any nonforfeiture benefits provided in the poli-
5 cies or contracts.

6 “(3) An insurer that **adopts** at any time *[has adopted any]* **a** standard of
7 valuation *[producing]* **that produces** greater aggregate reserves than
8 *[those]* **the aggregate reserves** calculated according to the minimum stand-
9 ard provided in ORS 733.300 to 733.322 may, with the approval of the direc-
10 tor, adopt any lower standard of valuation. The standard *[shall]* **may** not be
11 lower than the minimum provided in ORS 733.300 to 733.322, except that for
12 the purposes of this subsection, *[the]* holding *[of]* additional reserves *[previ-*
13 *ously determined by a qualified]* **that the appointed** actuary **previously**
14 **determined** to be necessary to render the opinion required by ORS 733.304
15 *[shall not be deemed to be]* **does not constitute** the adoption of *[such]* a
16 higher standard of valuation.

17 **“SECTION 26.** ORS 743.204 is amended to read:

18 “743.204. (1) ORS 743.204 to 743.222 may be cited as the Standard Non-
19 forfeiture Law for Life Insurance.

20 “(2) The operative date of the Standard Nonforfeiture Law for Life In-
21 surance as to any policy is the earlier of:

22 “(a) January 1, 1948; or

23 “(b) The date specified in a written notice¹, *filed]* **that the insurer files**
24 with the Director of the Department of Consumer and Business Services *[by*
25 *the insurer, of election]*, **in which the insurer elects** to comply with the
26 Standard Nonforfeiture Law for Life Insurance as to *[such]* **the policy and**
27 as of the specified date.

28 “(3) **The operative date of the valuation manual, as defined in sec-**
29 **tion 11 of this 2015 Act, is January 1 of the first calendar year in which**
30 **the valuation manual is effective.**

1 “[3] (4) The Standard Nonforfeiture Law for Life Insurance [*shall*] **does**
2 not apply to:

3 “(a) Any reinsurance, group insurance, pure endowment, annuity or
4 reversionary annuity policy.

5 “(b) Any term policy or renewal [*thereof*] **of a term policy**, of uniform
6 amount, [*which provides no*] **that does not provide** guaranteed nonforfeiture
7 or endowment benefits, of 20 years or less expiring before age 71[,] **and** for
8 which uniform premiums are payable during the entire term of the policy.
9 For this purpose, the age at death for a joint term life insurance policy [*shall*
10 *be*] **is** the age at death of the oldest life.

11 “(c) Any term policy of decreasing amount[, *which provides no*] **that does**
12 **not provide** guaranteed nonforfeiture or endowment benefits, if each ad-
13 justed premium, calculated as specified in ORS 743.215 and 743.216, is less
14 than the adjusted premium so calculated on a term policy or renewal
15 [*thereof*] **of a term policy** of uniform amount[, *which provides no*] **that does**
16 **not provide** guaranteed nonforfeiture benefits or endowment benefits,
17 [*which*] **that** is issued at the same age, for the same initial amount of in-
18 surance and for a term of 20 years or less that expires before age 71 and for
19 which uniform premiums are payable during the entire term of the policy.
20 For this purpose, the age at death for a joint term life insurance policy [*shall*
21 *be*] **is** the age at death of the oldest life.

22 “(d) Any policy [*which provides no*] **that does not provide** guaranteed
23 nonforfeiture or endowment benefits, and for which policy the cash surrender
24 value or present value of paid-up nonforfeiture benefit calculated for the
25 beginning of any policy year as specified in ORS 743.210, 743.213, 743.215 and
26 743.216 does not exceed two and one-half percent of the amount of insurance
27 at the beginning of [*such*] **the policy** year.

28 **“SECTION 27.** ORS 743.215 is amended to read:

29 “743.215. (1) This section applies to all life insurance policies issued on
30 or after the operative date defined in this subsection for the issuing insurer.

1 After January 1, 1982, any insurer may file with the Director of the Depart-
2 ment of Consumer and Business Services a written notice of [its] **the**
3 **insurer's** election to comply with the provisions of this section with regard
4 to any number of plans of insurance after a specified date before January
5 1, 1989. The specified date [shall be] **is** the operative date of this subsection
6 for the plan or plans, but if an insurer elects to make this subsection oper-
7 ative before January 1, 1989, for fewer than all plans, the insurer must
8 comply with rules [adopted by] the director **adopts**. There is no limit to the
9 number of times that an insurer may make the election. If an insurer [makes
10 no such] **does not make the** election, the operative date of this section for
11 the insurer [shall be] **is** January 1, 1989.

12 “(2) Except as provided in subsection (8) of this section, the adjusted
13 premiums referred to in ORS 743.210 for any life insurance policy to which
14 this section applies [shall] **must** be calculated as provided in this subsection,
15 on an annual basis, as a uniform percentage of the respective premiums
16 specified in the policy for each policy year, excluding amounts payable as
17 extra premiums to cover impairments or special hazards and excluding any
18 uniform annual contract charge or policy fee specified in the policy state-
19 ment of the method to be used in calculating the cash surrender values and
20 paid-up nonforfeiture benefits. This percentage [shall] **must** be such that the
21 present value, at the date of issue of the policy, of all such adjusted premi-
22 ums [shall equal] **equals** the sum of:

23 “(a) The present value at the policy issue date of the future guaranteed
24 benefits provided for by the policy;

25 “(b) One percent of either the amount of insurance, if the insurance is
26 uniform in amount, or the average of the amounts of insurance at the be-
27 ginning of each of the first 10 policy years; and

28 “(c) One hundred twenty-five percent of the nonforfeiture net level pre-
29 mium as defined in subsection (3) of this section. For this purpose, any ex-
30 cess of the nonforfeiture net level premium over four percent of [such] **the**

1 uniform or average amount of insurance [*shall*] **must** be disregarded.

2 “(3) The nonforfeiture net level premium referred to in subsection (2) of
3 this section [*shall*] **must** equal the present value, at the date of issue of the
4 policy, of the guaranteed benefits [*provided for by*] the policy **provides**, di-
5 vided by the present value, at the date of issue of the policy, of an annuity
6 of one per annum payable on the date of issue and on each anniversary of
7 the policy on which a premium falls due.

8 “(4) In the case of policies [*which*] **that** provide, on a basis guaranteed
9 in the policy, for unscheduled changes in benefits or premiums, or [*which*]
10 **that** provide an option for changes in benefits or premiums other than by
11 change to a new policy, the adjusted premiums and present values [*shall*]
12 **must** initially be calculated on the assumption that future benefits and
13 premiums do not change from [*those stipulated by*] **the future benefits and**
14 **premiums that** the policy **stipulates** at the date of issue. At the time of
15 any such change in the benefits or premiums the future adjusted premiums,
16 nonforfeiture net level premiums and present values [*shall*] **must** be recal-
17 culated as provided in subsection (5) of this section on the assumption that
18 future benefits and premiums do not change from [*those stipulated by*] **the**
19 **future benefits and premiums that** the policy **stipulates** immediately af-
20 ter the change.

21 “(5) Except as otherwise provided in subsection (8) of this section, the
22 recalculated future adjusted premiums referred to in subsection (4) of this
23 section [*shall*] **must** be calculated as provided in this subsection, on an an-
24 nual basis, as a uniform percentage of the respective future premiums speci-
25 fied in the policy for each policy year, excluding amounts payable as extra
26 premiums to cover impairments and special hazards and excluding any uni-
27 form annual contract charge or policy fee specified in the policy statement
28 of the method to be used in calculating the cash surrender values and paid-up
29 nonforfeiture benefits. This percentage [*shall*] **must** be such that the present
30 value, at the date of change to the newly defined benefits or premiums, of

1 all such future adjusted premiums [*shall equal*] **equals** A plus B minus C,
2 where these amounts are defined as follows:

3 “(a) ‘A’ equals the present value, as of the date of change, of the future
4 guaranteed benefits provided for by the policy.

5 “(b) ‘B’ equals the additional expense allowance, if any, for the policy,
6 as defined in subsection (6) of this section.

7 “(c) ‘C’ equals the cash surrender value under the policy, if any, or pres-
8 ent value of any paid-up nonforfeiture benefit under the policy, as of the date
9 of change.

10 “(6) The additional expense allowance at the date of the change to the
11 newly defined benefits or premiums, as referred to in subsection (5) of this
12 section, [*shall*] **must** equal the sum of:

13 “(a) One percent of the excess, if positive, of the average of the amounts
14 of insurance at the beginning of each of the first 10 policy years subsequent
15 to the change, over the average of the amounts of insurance, as defined be-
16 fore the change, at the beginning of each of the first 10 policy years subse-
17 quent to the last previous change or the policy issue date if there has been
18 no change.

19 “(b) One hundred twenty-five percent of the change, if positive, in the
20 amount of the nonforfeiture net level premium from the amount applicable
21 prior to the change in policy benefits or premiums to the amount of the re-
22 calculated nonforfeiture net level premium determined from subsection (7)
23 of this section as of the date of the change in policy benefits or premiums.

24 “(7) The recalculated nonforfeiture net level premium referred to in sub-
25 section (6) of this section [*shall*] **must** equal Y divided by Z, where these
26 amounts are defined as follows:

27 “(a) ‘Y’ equals the sum of:

28 “(A) The nonforfeiture net level premium applicable prior to the change
29 times the present value at the date of change of an annuity of one per annum
30 payable on each anniversary of the policy, on or subsequent to the date of

1 the change, on which a premium would have fallen due had the change not
2 occurred; and

3 “(B) The present value at the date of change of the increase in future
4 guaranteed benefits provided for by the policy.

5 “(b) ‘Z’ equals the present value at the date of change of an annuity of
6 one per annum payable on each anniversary of the policy, on or subsequent
7 to the date of change, on which a premium falls due.

8 “(8) Notwithstanding any other provisions of this section, the provisions
9 of this subsection [*shall*] apply [*in the case of*] **to** a policy issued on a sub-
10 standard basis [*which*] **that** provides reduced graded amounts of insurance
11 determined so that, in each policy year, the policy has the same tabular
12 mortality cost as for an otherwise similar policy of a higher nongraded
13 amount or amounts of insurance issued on the standard basis. Adjusted pre-
14 miums and present values for a policy on such a substandard basis may be
15 calculated as if the policy were issued to provide such a higher nongraded
16 amount or amounts of insurance on the standard basis.

17 “(9) Except as provided in subsection (10) of this section, all adjusted
18 premiums and present values referred to in the Standard Nonforfeiture Law
19 for Life Insurance [*shall*] **must**, for all policies of life insurance to which
20 this section applies, be calculated on the mortality and interest bases as
21 follows:

22 “(a) For ordinary life insurance mortality:

23 “(A) The Commissioners 1980 Standard Ordinary Mortality Table [*shall*]
24 **must** be used; or

25 “(B) At the option of the insurer for any one or more specified plans of
26 life insurance, the Commissioners 1980 Standard Ordinary Mortality Table
27 with Ten-Year Select Mortality Factors may be used instead of such table
28 without Ten-Year Select Mortality Factors.

29 “(b) For industrial life insurance mortality, the Commissioners 1961
30 Standard Industrial Mortality Table [*shall*] **must** be used.

1 “(c) For all policies issued in a particular calendar year, an interest rate
2 [shall] **must** be used [which] **that** does not exceed the nonforfeiture interest
3 rate, as defined in subsection (11) of this section, for policies issued in that
4 year.

5 “(10) The following provisions [shall] also apply, for policies to which this
6 section applies, to the calculation of premiums and values referred to in the
7 Standard Nonforfeiture Law for Life Insurance:

8 “(a) At the option of the insurer, such calculations for all policies issued
9 in a particular calendar year may be made on the basis of an interest rate
10 [which] **that** does not exceed the nonforfeiture interest rate, as defined in
11 subsection (11) of this section, for policies issued in the last preceding cal-
12 endar year.

13 “(b) Under any paid-up nonforfeiture benefit, including any paid-up divi-
14 dend additions, any cash surrender value available, whether or not required
15 by ORS 743.207, [shall] **must** be calculated on the basis of the mortality table
16 and interest rate used in determining the amount of such paid-up nonforfei-
17 ture benefit and paid-up dividend additions.

18 “(c) An insurer shall calculate the amount of any guaranteed paid-up
19 nonforfeiture benefit, including any paid-up additions, on the basis of an in-
20 terest rate no lower than [that] **the interest rate** specified in the policy for
21 calculating cash surrender values.

22 “(d) In calculating the present value of any paid-up term insurance with
23 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the
24 rates of mortality assumed may be not more than those shown in the Com-
25 missioners 1980 Extended Term Insurance Table for policies of ordinary life
26 insurance, and not more than those shown in the Commissioners 1961 In-
27 dustrial Extended Term Insurance Table for policies of industrial life insur-
28 ance.

29 “(e) For insurance issued on a substandard basis, the calculation of pre-
30 miums and values may be based on appropriate modifications of the mortality

1 tables referred to in subsection (9) of this section and in this subsection.

2 “(f)(A) **For policies issued before the operative date of the valuation**
3 **manual, any Commissioners Standard** [*Any*] ordinary life mortality tables
4 [*adopted after 1980 by*] **that** the National Association of Insurance Commis-
5 sioners **adopted after 1980 and** that are approved under rules [*issued by*] the
6 director **adopted** for use in determining the minimum nonforfeiture standard
7 may be substituted for the Commissioners 1980 Standard Ordinary Mortality
8 Table with or without Ten-Year Select Mortality Factors, or for the Com-
9 missioners 1980 Extended Term Insurance Table.

10 “(B) **For policies issued on or after the operative date of the valu-**
11 **ation manual, the valuation manual must provide the Commissioners**
12 **Standard ordinary mortality table for use in determining the minimum**
13 **nonforfeiture standard that may be substituted for the Commissioners**
14 **1980 Standard Ordinary Mortality Table with or without Ten-Year Se-**
15 **lect Mortality Factors or for the Commissioners 1980 Extended Term**
16 **Insurance Table. If the director approves by rule any Commissioners**
17 **Standard ordinary mortality table that the National Association of**
18 **Insurance Commissioners adopted for use in determining the mini-**
19 **imum nonforfeiture standard for policies issued on or after the opera-**
20 **tive date of the valuation manual, the minimum nonforfeiture**
21 **standard that the director approved by rule supersedes the minimum**
22 **nonforfeiture standard provided by the valuation manual.**

23 “(g)(A) **For policies issued before the operative date of the valuation**
24 **manual, any Commissioners Standard** [*Any*] industrial life mortality ta-
25 bles [*adopted after 1980 by*] **that** the National Association of Insurance
26 Commissioners **adopted after 1980 and** that are approved under rules [*issued*
27 *by*] the director **adopted** for use in determining the minimum nonforfeiture
28 standard may be substituted for the Commissioners 1961 Standard Industrial
29 Mortality Table or the Commissioners 1961 Industrial Extended Term Insur-
30 ance Table.

1 “(B) For policies issued on or after the operative date of the valu-
2 ation manual, the valuation manual must provide the Commissioners
3 Standard mortality table for use in determining the minimum non-
4 forfeiture standard that may be substituted for the Commissioners 1961
5 Standard Industrial Mortality Table or the Commissioners 1961 Indus-
6 trial Extended Term Insurance Table. If the director approves by rule
7 any Commissioners Standard industrial mortality table that the Na-
8 tional Association of Insurance Commissioners adopted for use in de-
9 termining the minimum nonforfeiture standard for policies issued on
10 or after the operative date of the valuation manual, the minimum
11 nonforfeiture standard that the director approved by rule supersedes
12 the minimum nonforfeiture standard provided by the valuation man-
13 ual.

14 “(11)(a) For policies issued before the operative date of the valuation
15 manual, the nonforfeiture interest rate for any policy issued in a particular
16 calendar year *[shall]* **must** equal 125 percent of the calendar year statutory
17 valuation interest rate for such policy as defined in the Standard Valuation
18 Law, rounded to the nearer one-quarter of one percent[.], **except that the**
19 **nonforfeiture interest rate under this paragraph may not be less than**
20 **four percent.**

21 “(b) For policies issued on or after the operative date of the valu-
22 ation manual, the nonforfeiture annual interest rate for any policy
23 issued in a particular calendar year must be as provided in the valu-
24 ation manual.

25 “(12) Notwithstanding any other provision in this chapter or ORS chapter
26 743A, for any previously approved policy form, any refiling of nonforfeiture
27 values or *[their]* methods of computation **for nonforfeiture values that**
28 *[which]* involves only a change in the interest rate or mortality table used
29 to compute nonforfeiture values *[shall not of itself]* **does not alone** require
30 refiling *[of]* any other provisions of *[that]* **that approved** policy form.

1 **SECTION 28.** (1) Section 14 of this 2015 Act and the amendments
2 to ORS 732.586, 733.302, 733.304, 733.316, 733.318, 743.204 and 743.215 by
3 sections 21 to 27 of this 2015 Act apply to all policies and contracts,
4 as appropriate, that are issued on or after the operative date for the
5 Standard Nonforfeiture Law for Life Insurance under ORS 743.204 and
6 before the operative date of the valuation manual.

7 “(2) Sections 15 to 17 of this 2015 Act do not apply to policies and
8 contracts described in subsection (1) of this section.

9 “(3) The minimum standard for the valuation of policies and con-
10 tracts that were issued before the operative date for the Standard
11 Nonforfeiture Law for Life Insurance under ORS 743.204 is the mini-
12 mum standard set forth in the laws that were in effect immediately
13 before the operative date for the Standard Nonforfeiture Law for Life
14 Insurance under ORS 743.204.

15 **SECTION 29.** Each insurer required to do so shall file the first own
16 risk and solvency assessment summary report for the calendar year
17 ending December 31, 2016, in accordance with section 6 of this 2015 Act.

18 **SECTION 30.** (1) Sections 2 to 9 and 11 to 20 of this 2015 Act and
19 the amendments to ORS 732.586, 733.302, 733.304, 733.316, 733.318, 743.204
20 and 743.215 by sections 22, 23, 24, 25, 26 and 27 of this 2015 Act become
21 operative on January 1, 2016.

22 “(2) The Director of the Department of Consumer and Business
23 Services may take any action before the operative date specified in
24 subsection (1) of this section that is necessary to enable the director
25 to exercise, on or after the operative date specified in subsection (1)
26 of this section, all of the duties, functions and powers conferred on the
27 director by sections 2 to 9 and 11 to 20 of this 2015 Act and the
28 amendments to ORS 732.586, 733.302, 733.304, 733.316, 733.318, 743.204 and
29 743.215 by sections 22, 23, 24, 25, 26 and 27 of this 2015 Act.

30 **SECTION 31.** This 2015 Act being necessary for the immediate

1 **preservation of the public peace, health and safety, an emergency is**
2 **declared to exist, and this 2015 Act takes effect on its passage.”.**

3
