No. 1980-92

AN ACT

SB 1162

Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as amended, "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws," further regulating the computation of the reserve liability of life insurance policies and annuity contracts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 301, act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of one thousand nine hundred and twenty-one," amended May 1, 1945 (P.L.346, No.145), May 25, 1951 (P.L.406, No.94), August 14, 1959 (P.L.721, No.253), July 31, 1963 (P.L.429, No.224) and June 23, 1976 (P.L.403, No.90), is amended to read:

Section 301. Computation of Reserve Liability.—(a) The Insurance Commissioner shall each year value, or cause to be valued, the reserve liabilities (hereinafter called reserves or net value), as of the thirty-first day of December of the preceding year, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this Commonwealth, except that in the case of any company organized under the laws of any foreign country, such valuation shall be limited to its United States business in accordance with the terms of the policy, contract, and rules following, 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 other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise.

(b) This subsection shall apply only to policies and contracts issued prior to the operative date of section four hundred and ten A (the Standard Non-forfeiture Law) of an act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), as amended.

(1) The net value of all outstanding policies of life insurance, issued by the company prior to the first day of January, one thousand eight hundred and ninety, shall be computed upon the basis of the

American experience table of mortality, with interest at not less than four and one-half and not more than six per centum per annum.

(2) The net value of all outstanding policies, issued between the first day of January, one thousand eight hundred and ninety, and the first day of January, one thousand nine hundred and three, on the combined experience or actuaries' table of mortality, with interest at four per centum per annum.

(3) The net value of all outstanding policies of life insurance, issued on and after the first day of January, nineteen hundred and three, on the American experience table of mortality, with interest at three and one-half per centum per annum: Provided, however, That any company may value its group term insurance policies, under which premium rates are not guaranteed for a period in excess of five years, according to the American men ultimate table of mortality, with interest at three and one-half per centum per annum.

(4) The net value of all policies of life insurance, issued on and after January first, one thousand nine hundred and twenty-one, where the premiums are payable monthly or oftener, shall be valued according to the American experience table of mortality, with interest at three and one-half per centum per annum. But any company may voluntarily value its industrial policies according to the standard industrial mortality table, with interest at three and one-half per centum per annum.

(5) The net value of a policy at any time shall be taken to be the single net premium which will, at that time, affect the insurance, less the value at that time of the future net premiums called for by the table of mortality and rate of interest designated.

(6) Except as otherwise provided in subparagraph (B) of paragraph (1) of subsection (c) of this section for group annuity and pure endowment contracts, the legal minimum standard for valuation of annuities issued after January one, one thousand nine hundred and twelve, shall be McClintock's table of mortality among annuitants, with interest at three and one-half per centum per annum; **[but]** *however, (i) for annuities and pure endowments purchased under group annuity and pure endowment contracts the legal minimum standard may, at the option of the company, be the 1971 Group Annuity Mortality Table or any modification of this table approved by the Insurance Commissioner, with interest at five per centum per annum, and (ii)* annuities deferred ten or more years, and written in connection with life or term insurance, shall be valued upon the same mortality table from which the consideration or premiums were computed, with interest not higher than three and one-half per centum per annum.

(7) Any such company may, however, at any time elect under any of its policies of life insurance to reserve on the American experience table of mortality, with a lower rate of interest, but at a rate not less than two per centum, or on the American men ultimate table of

mortality (with such modification and extension below age twenty as may be approved by the Insurance Commissioner), with interest at a rate not more than three and one-half per centum and not less than two per centum and its obligations under such policies shall be valued accordingly.

(8) On or after the operative date of section four hundred and ten A (the Standard Non-forfeiture Law) of an act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), as amended, reserves for any policies or contracts may be calculated, at the option of the company, according to any standard which produces greater aggregate reserves for all such policies or contracts than the standard in use by such company immediately prior to the exercise of the option; and, with the approval of the Insurance Commissioner, any company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than the minimum reserves above provided may adopt any lower standard of valuation for any policies or contracts but not lower than the minimum reserves above provided nor lower than the standard specified in such policies or contracts or the standard used by such company for the determination of the nonforfeiture values thereof.

(c) This subsection shall apply only to policies and contracts issued on or after the operative date of section four hundred and ten A (the Standard Non-forfeiture Law) of an act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), as amended, except as otherwise provided in subparagraph (B) of paragraph (1) of this subsection for group annuity and pure endowment contracts issued prior to such operative date.

(1) (A) Except as otherwise provided in subparagraph (B) of this paragraph (1), the minimum standard for the valuation of all such policies and contracts shall be the Commissioners reserve valuation **[method]** ***methods*** defined in **[paragraph]** ***paragraphs*** (2) ***and (3)*** of this subsection (c), ***and in section 303,*** three and one-half per centum (3 1/2%) interest ***for policies and contracts other than group annuity and pure endowment contracts and as provided in (iii) of this subparagraph (A) for group annuity and pure endowment contracts,*** or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after **[the effective date of this amending act of 1976 and prior to January 1, 1986]** ***June 23, 1976,*** four per centum (4%) interest ***for such policies issued prior to January 1, 1979 and four and one-half per centum (4 1/2%) interest or such higher rate of interest as may be approved from time to time by the Insurance Commissioner for such policies issued on or after January 1, 1979,*** and the following tables:

(i) 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 clause (2) of subsection (d) of section 410 A (the Standard Non-forfeiture Law) of "The Insurance Company Law of 1921," 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, all modified net premiums and present values referred to in this section may be calculated according to any age not more than **[three]** *six* years younger than the actual age of the insured.

(ii) 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 paragraph (3) of subsection (d) of section 410-A (The Standard Non-forfeiture Law) of "The Insurance Company Law of 1921," and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(iii) For Individual Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1937 Standard Annuity Mortality Table, or at the option of the company, the Annuity Mortality Table for 1949 Ultimate or any modification of either of these tables approved by the Insurance Commissioner.

For *all annuities and pure endowments purchased under* Group Annuity and Pure Endowment contracts, excluding any disability and accidental death benefits in such contracts, *either* the Group Annuity Mortality Table for 1951, *or* any modification of such table approved by the Insurance Commissioner, *with interest at three and one-half per centum (3 1/2%)* or, *at the option of the company, the 1971 Group Annuity Mortality Table or any modification of this table approved by the Insurance Commissioner, in which event five per centum (5%) interest shall be used in determining the minimum standard for the valuation of such contracts; or* at the option of the company, any of the tables or modifications of tables specified for Individual Annuity and Pure Endowment contracts.

(iv) 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 and 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 company, 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.

(v) 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 company, 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.

(vi) For Group Life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the Insurance Commissioner.

(B) The minimum standard for valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subparagraph (B), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioner's reserve valuation **[method]** *methods* defined in **[paragraph]** *paragraphs* (2) *and (3)* of this subsection (c) and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to **[January 1, 1986]** *January 1, 1979*, 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 Insurance Commissioner; and six per centum (6%) interest for single premium immediate annuity contracts, and four per centum (4%) interest for all other individual annuity and pure endowment contracts.

[(ii) For individual annuity and pure endowment contracts issued on or after January 1, 1986, 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 Insurance Commissioner, and three and one-half per centum (3 1/2%) interest.]

(ii) For individual single premium immediate annuity contracts issued on or after January 1, 1979, 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 Insurance Commissioner, and seven and one-half per centum (7 1/2%) interest or such higher rate of interest as may be approved from time to time by the Insurance Commissioner.

(iii) For individual annuity and pure endowment contracts issued on or after January 1, 1979, other than single premium immediate annuity contracts, 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 Insurance Commissioner, and five and one-half per centum (5 1/2%) interest for single

premium deferred annuity and pure endowment contracts and four and one-half per centum (4 1/2%) interest for all other such individual annuity and pure endowment contracts or such higher rate or rates of interest as may be approved from time to time by the Insurance Commissioner.

[(iii)] *(iv)* For all annuities and pure endowments purchased prior to **[January 1, 1986]** *January 1, 1979* 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 Insurance Commissioner, and six per centum (6%) interest.

[(iv) For all annuities and pure endowments purchased on or after January 1, 1986 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 Insurance Commissioner, and three and one-half per centum (3 1/2%) interest.]

(v) For all annuities and pure endowments purchased on or after January 1, 1979 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 Insurance Commissioner and seven and one-half per centum (7 1/2%) interest or such higher rate of interest as may be approved from time to time by the Insurance Commissioner.

After **[the effective date of this act]** *June 23, 1976,* a company may file with the Insurance Commissioner a written notice of its election to comply with the provisions of this subparagraph (B) after a specified date before January 1, 1979, which shall be the operative date of this subparagraph (B) for such company: Provided, That a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. Whenever a company makes no such election, the operative date of this subparagraph (B) for such company shall be January 1, 1979.

(2) **[Reserves]** *Except as otherwise provided in paragraph (3) of this subsection (c), and in section 303, 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 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 (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (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 employe 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,*** (iii) disability and accidental death benefits in all policies and contracts, and (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 paragraph (2) of this subsection (c), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(3) This section 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 employe 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 such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed non-forfeiture benefits, provided for by such 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 such contract, that

become payable prior to the end of such 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 such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine non-forfeiture values.

[(3)] *(4)* In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the **[method]** *methods* set forth in **[paragraph (2)]** ***paragraphs (2) and (3)*** of this subsection (c), ***and in section 303,*** and the mortality table or tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.

[(4)] *(5)* Reserves for any category of policies, contracts or benefits as established by the Insurance Commissioner, may be calculated, at the option of the company, according to any 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 non-forfeiture benefits provided for therein.**[: Provided, however, That reserves for participating life insurance policies may, with the consent of the Insurance Commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the non-forfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the non-forfeiture benefits by more than one-half per centum (1/2%) the company issuing such policies shall file with the Insurance Commissioner a plan providing for such equitable increases, if any, in the cash surrender values and non-forfeiture benefits in such policies as the Insurance Commissioner shall approve.**

(5)] *(6)* Any such company which at any time shall have 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 Insurance Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(d) The aggregate reserves or net value so ascertained of the policies and contracts of any such life insurance company shall be deemed its reserve liability, to provide for which it shall hold funds in secure investments of an amount equal to such net value above all its other liabilities. The Insurance Commissioner shall, after having determined as above the net value of all the policies and contracts in force, see that the company has that amount in safe legal securities, after all its other debts and claims against it have been provided for.

(e) The provisions of this section for the valuation of policies and for premium rates shall not apply to companies or associations transacting business on the mutual assessment plan.

Section 2. Section 303 of the act, amended May 1, 1945 (P.L.346, No.145), is amended to read:

Section 303. **[Deficiency]** ***Minimum*** Reserve Requirements of Companies Charging Less Than Net Premiums Computed on Mortality Tables.—If ***in any contract year*** the gross premium charged by any life insurance company on any policy or contract is less than the ***valuation*** 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**[, 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. At the option of the company the net premium for the purpose of this section for all policies and contracts issued prior to the operative date of section four hundred and ten A (The Standard Non-forfeiture Law) of an act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), as amended, shall be computed according to the table of mortality and rate of interest prescribed for such insurance in clauses (1), (2), (3) or (4) of subsection (b) of section three hundred and one of this act, except that it shall be computed according to the table of mortality and rate of interest specified in the policy as the basis of the reserve for such insurance, if the table so specified is the American men ultimate table of mortality.]** ***but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such 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 such policy or contract, or the reserve calculated by the method actually used for such 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.***

Section 3. This act shall take effect immediately.

APPROVED—The 3rd day of July, A. D. 1980.

DICK THORNBURGH