

**Chapter 48.74 RCW  
STANDARD VALUATION LAW**

**Sections**

- 48.74.010 Short title.
- 48.74.015 Definitions—Applicable after valuation manual is operative.
- 48.74.020 Valuation of reserve liabilities—Applicable before valuation manual is operative.
- 48.74.022 Valuation of reserve liabilities—Applicable after valuation manual is operative.
- 48.74.025 Reserves and related actuarial items—Opinion of a qualified actuary—Requirements for the opinion—Rules—Applicable before valuation manual is operative.
- 48.74.026 Confidentiality of material submitted under RCW 48.74.025.
- 48.74.028 Reserves and related actuarial items—Opinion of a qualified actuary—Requirements for the opinion—Rules—Applicable after valuation manual is operative.
- 48.74.030 Minimum standard for valuation.
- 48.74.040 Amount of reserves required.
- 48.74.050 Minimum aggregate reserves.
- 48.74.060 Other methods of reserve calculation.
- 48.74.070 Minimum reserve if gross premium less than valuation net premium.
- 48.74.080 Procedure when specified methods of reserve determination unfeasible.
- 48.74.090 Valuation of disability insurance.
- 48.74.100 Valuation manual—Operative date—Changes—Required contents—Use—Commissioner's powers.
- 48.74.110 Reserves—Principle-based valuation.
- 48.74.120 Submission of data.
- 48.74.130 Confidentiality of certain information—Exceptions.

**RCW 48.74.010 Short title.** This chapter may be known and cited as the standard valuation law. [2016 c 142 § 1; 1982 1st ex.s. c 9 § 1.]

**Effective date—2016 c 142:** "Sections 1 through 19 of this act take effect January 1, 2017." [2016 c 142 § 21.]

**RCW 48.74.015 Definitions—Applicable after valuation manual is operative.** Beginning on the operative date of the valuation manual, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in RCW 48.74.028.

(2) "Company" means an entity, that:

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

(b) Has written, issued, or reinsured life insurance contracts, disability insurance contracts, or deposit-type contracts in any state

and is required to hold a certificate of authority to write life insurance, disability insurance, or deposit-type contracts in this state.

(3) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(4) "Disability insurance," which also may be known in the industry as "accident and health insurance," means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) "NAIC" means the national association of insurance commissioners.

(7) "Policyholder behavior" means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this chapter including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with RCW 48.74.110 as specified in the valuation manual.

(9) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this chapter. [2016 c 142 § 2.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.020 Valuation of reserve liabilities—Applicable before valuation manual is operative.** This section applies to policies and contracts issued prior to the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state issued on or after July 10, 1982, and prior to the operative date of the valuation manual. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year

or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this chapter.

(2) RCW 48.74.030 through 48.74.090 apply to all policies and contracts, as appropriate, subject to this chapter issued on or after July 10, 1982, and prior to the operative date of the valuation manual and RCW 48.74.100 and 48.74.110 do not apply to any such policies and contracts.

(3) The minimum standard for valuation of policies and contracts issued prior to July 10, 1982, is that provided by the laws immediately prior to that date. [2016 c 142 § 3; 1982 1st ex.s. c 9 § 2.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.022 Valuation of reserve liabilities—Applicable after valuation manual is operative.** This section applies to policies and contracts issued on or after the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, called reserves, for all outstanding life insurance contracts, annuity and endowment contracts, disability contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state, or other jurisdiction when the valuation complies with the minimum standard provided in this chapter.

(2) RCW 48.74.100 and 48.74.110 apply to all policies and contracts issued on or after the operative date of the valuation manual. [2016 c 142 § 4.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.025 Reserves and related actuarial items—Opinion of a qualified actuary—Requirements for the opinion—Rules—Applicable before valuation manual is operative.** This section applies to actuarial opinions prior to the operative date of the valuation manual.

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

(2) Actuarial analysis of reserves and assets supporting reserves.

(a) Every life insurance company, except as exempted by rule, shall also include in the opinion required under subsection (1) of this section an opinion as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

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

(3) Each opinion required under subsection (2) of this section is governed by the following provisions:

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

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or if the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(4) Every opinion required under this section is governed by the following provisions:

(a) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994.

(b) The opinion applies to all business in force, including individual and group disability insurance, in form and substance acceptable to the commissioner as specified by rule.

(c) The opinion must be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the commissioner may prescribe by rule.

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

(e) For purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in rules adopted by the commissioner.

(f) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(g) Rules adopted by the commissioner shall define disciplinary action by the commissioner against the company or the qualified actuary. [2016 c 142 § 5; 1993 c 462 § 85.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**Severability—Implementation—1993 c 462:** See RCW 48.31B.901 and 48.31B.902.

**RCW 48.74.026 Confidentiality of material submitted under RCW 48.74.025.** (1) (a) The opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025 are confidential and privileged, are exempt from disclosure pursuant to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action, only if and to the extent that the opinion and memorandum supporting the opinion independently qualify for exemption from disclosure as documents, materials, or information in the possession of the commissioner pursuant to a financial conduct examination.

(b) If independently qualifying for exemption from disclosure, as provided in (a) of this subsection, the provisions of RCW 48.02.065 apply to the opinion and memorandum in support of the opinion to the same extent as documents, materials, and information in possession of the commissioner pursuant to a financial conduct examination.

(2) In addition to the provisions of RCW 48.02.065, (a) through (c) of this subsection apply to the opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025.

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

(b) A memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

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

(3) Included in those agencies or organizations with which the commissioner may share the opinion and memorandum in support of the opinion, as provided in this section and RCW 48.02.065, is the office of the attorney general for purposes of investigating any consumer protection or antitrust action. [2016 c 142 § 7.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.028 Reserves and related actuarial items—Opinion of a qualified actuary—Requirements for the opinion—Rules—Applicable after valuation manual is operative.** This section applies to actuarial opinions of reserves after the operative date of the valuation manual.

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

(2) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, must also annually include in the opinion required by subsection (1) of this section, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) Each opinion required by this section is governed by the following:

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

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

(4) Every opinion under this section is governed by the following:

(a) The opinion must be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(b) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the valuation manual.

(c) The opinion must apply to all policies and contracts subject to this section, plus other actuarial liabilities as may be specified in the valuation manual.

(d) The opinion must be based on standards adopted from time to time by the actuarial standards board or its successor, and on the additional standards as may be prescribed in the valuation manual.

(e) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion

reasonably meets the requirements applicable to a company domiciled in this state.

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

(g) Disciplinary action by the commissioner against the company or the appointed actuary must be defined in rule by the commissioner. [2016 c 142 § 6.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.030 Minimum standard for valuation.** (1) Except as provided in subsections (2) and (3) of this section, or in RCW 48.74.090, the minimum standard for the valuation of all such policies and contracts issued prior to July 10, 1982, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections (2) and (3) of this section, or in RCW 48.74.090, the minimum standard for the valuation of all such policies and contracts issued on or after July 10, 1982, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040, 48.74.070, and 48.74.090, three and one-half percent interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 16, 1973, four percent interest for such policies issued prior to September 1, 1979, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on and after September 1, 1979, and the following tables:

(a) For ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioner's 1941 standard ordinary mortality table for such policies issued prior to the operative date of RCW 48.76.050(5) and the commissioner's 1958 standard ordinary mortality table for such policies issued on or after such operative date and prior to the operative date of RCW 48.76.050(5), except that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this chapter may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of RCW 48.76.050(7):

(i) The commissioner's 1980 standard ordinary mortality table;

(ii) At the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with ten-year select mortality factors; or

(iii) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative date of RCW 48.76.050(6), and for such policies issued on or after such operative date of RCW 48.76.050(6), the commissioner's 1961 standard industrial mortality

table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule of the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

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

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; 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.

(f) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; 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 intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

(2) Except as provided in subsection (3) of this section, the minimum standard valuation for individual annuity and pure endowment contracts issued on or after July 10, 1982, and for all annuities and pure endowments purchased on or after such effective date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040 and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued before September 1, 1979, excluding any disability and accidental death benefit in such contracts—the 1971 individual annuity mortality



table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after September 1, 1979, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

(c) For individual annuity and pure endowment contracts issued on or after September 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 individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to September 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 commissioner, and six percent interest.

(e) For all annuities and pure endowments purchased on or after September 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 group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

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

(3) (a) The interest rates used in determining the minimum standard for the valuation of:

(i) Life insurance policies issued in a particular calendar year, on or after the operative date of RCW 48.76.050(7);

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

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

(iv) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this section.

(b) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(i) For life insurance:

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09);$$

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

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

where  $R_1$  is the lesser of R and .09,

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

R is the reference interest rate defined in this section, and

W is the weighting factor defined in this section;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (b)(ii) of this subsection, the formula for life insurance stated in (b)(i) of this subsection shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in (b)(ii) of this subsection shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (b)(ii) of this subsection shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (b)(ii) of this subsection shall apply.

(c) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1983 using the reference interest rate defined for 1982 and shall be determined for each subsequent calendar year regardless of when RCW 48.76.050(7) becomes operative.

(d) The weighting factors referred to in the formulas stated in (b) of this subsection are given in the following tables:

(i) Weighting Factors for Life Insurance:

<b>Guarantee Duration (Years)</b>	<b>Weighting Factors</b>
10 or less	.50
More than 10, but not more than 20	.45

**Guarantee Duration  
(Years)**  
More than 20

**Weighting  
Factors**  
.35

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

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (d)(ii) of this subsection, shall be as specified in (d)(iii)(A), (B), and (C) of this subsection, according to the rules and definitions in (d)(iii)(D), (E), and (F) of this subsection:

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

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

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (d)(iii)(A) of this subsection increased by:

A	Plan Type	
	B	C
.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis other than those with no cash settlement options which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in (d)(iii)(A) of this subsection or derived in (d)(iii)(B) of this subsection increased by:

A	Plan Type	
	B	C
.05	.05	.05

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from

the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(E) Plan type as used in the tables in (d) (iii) (A), (B), and (C) of this subsection is defined as follows:

Plan Type A: At any time a policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, a policyholder may withdraw funds only: (1) With adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: A policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(F) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract. The change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(e) The reference interest rate referred to in (b) and (c) of this subsection is defined as follows:

(i) For life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30th of the calendar year next preceding the year of issue, of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

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

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (e) (ii) of this subsection, with guarantee duration in excess of ten years, the lesser of the

average over a period of thirty-six months and the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (e)(ii) of this subsection, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

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

(vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (e)(ii) of this subsection, the average over a period of twelve months, ending on June 30th of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(f) If the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or if the national association of insurance commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, may be substituted. [2016 c 142 § 8; 1993 c 462 § 86; 1982 1st ex.s. c 9 § 3.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.040 Amount of reserves required.** (1) Except as otherwise provided in RCW 48.74.040(2), 48.74.070, and 48.74.090, reserves according to the commissioner's 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: PROVIDED, That for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in RCW 48.74.070, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph of this subsection and the reserve as of such policy anniversary calculated as described in that paragraph, but with: (i) The value defined in subparagraph (a) of that paragraph being reduced by fifteen percent of the amount of such excess first year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in RCW 48.74.030 (1) and (3) shall be used.

Reserves according to the commissioner's reserve valuation method for life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, disability and accidental death benefits in all policies and contracts, and 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 the preceding paragraphs of this subsection.

(2) 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 employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioner's 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 nonforfeiture 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 nonforfeiture values. [1993 c 462 § 87; 1982 1st ex.s. c 9 § 4.]

**Severability—Implementation—1993 c 462:** See RCW 48.31B.901 and 48.31B.902.

**RCW 48.74.050 Minimum aggregate reserves.** (1) In no event may a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after July 10, 1982, be less than the aggregate reserves calculated in accordance with the methods set forth in RCW 48.74.040, 48.74.070, and 48.74.080 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) In no event may the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required under RCW 48.74.025 and 48.74.028. [2016 c 142 § 9; 1993 c 462 § 88; 1982 1st ex.s. c 9 § 5.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**Severability—Implementation—1993 c 462:** See RCW 48.31B.901 and 48.31B.902.

**RCW 48.74.060 Other methods of reserve calculation.** (1) Reserves for all policies and contracts issued prior to July 10, 1982, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after July 10, 1982, 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 greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies or contracts.

(3) A company which adopts at any time any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard under this chapter may, adopt a lower standard of valuation with the approval of the commissioner, but not lower than the minimum provided. For the purposes of this section, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required under RCW 48.74.025 and 48.74.028 is not to be the adoption of a higher standard of valuation. [2016 c 142 § 10; 1993 c 462 § 89; 1982 1st ex.s. c 9 § 6.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**Severability—Implementation—1993 c 462:** See RCW 48.31B.901 and 48.31B.902.

**RCW 48.74.070 Minimum reserve if gross premium less than valuation net premium.** If in any contract year the gross premium charged by a company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon 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 valuation 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. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in RCW 48.74.030 (1) and (3): PROVIDED, That for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in RCW 48.74.040, ignoring the second paragraph of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with RCW 48.74.040, including the second paragraph of that section, and the minimum reserve calculated in accordance with this section. [2016 c 142 § 11; 1982 1st ex.s. c 9 § 7.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.080 Procedure when specified methods of reserve determination unfeasible.** In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be



determined by the methods described in RCW 48.74.040 and 48.74.070, the reserves which are held under any such plan must, under regulations promulgated by the commissioner:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(2) Be computed by a method which is consistent with the principles of this standard valuation law. [1982 1st ex.s. c 9 § 8.]

**RCW 48.74.090 Valuation of disability insurance.** For disability insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under RCW 48.74.022. For disability insurance contracts issued on or after July 10, 1982, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule. [2016 c 142 § 12; 1993 c 462 § 90.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**Severability—Implementation—1993 c 462:** See RCW 48.31B.901 and 48.31B.902.

**RCW 48.74.100 Valuation manual—Operative date—Changes—Required contents—Use—Commissioner's powers.** (1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under RCW 48.74.022, except as provided under subsection (5) or (7) of this section.

(2) The operative date of the valuation manual is January 1st of the first calendar year following the first July 1st as of which all of the following have occurred:

(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater.

(b) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: Life, accident and health annual statements, health annual statements, or fraternal annual statements.

(c) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: The fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual are effective on January 1st following the date when all of the following have occurred: The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(a) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership; and

(b) Members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in (a) of this subsection: Life, accident and health annual statements, health annual statements, or fraternal annual statements.

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

(a) Minimum valuation standards for and definitions of the policies or contracts subject to RCW 48.74.022. Such minimum valuation standards shall be:

(i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to RCW 48.74.022;

(ii) The commissioner's annuity reserve valuation method for annuity contracts subject to RCW 48.74.022; and

(iii) Minimum reserves for all other policies or contracts subject to RCW 48.74.022;

(b) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in RCW 48.74.110(1) and the minimum valuation standards consistent with those requirements;

(c) For policies and contracts subject to a principle-based valuation under RCW 48.74.110:

(i) Requirements for the format of reports to the commissioner under RCW 48.74.110(2)(c) which must include information necessary to determine if the valuation is appropriate and in compliance with this chapter;

(ii) Assumptions must be prescribed for risks over which the company does not have significant control or influence; and

(iii) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(d) For policies not subject to a principle-based valuation under RCW 48.74.110, the minimum valuation standard must either:

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

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

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

(f) The data and form of the data required under RCW 48.74.120, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter, then the company must, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by rule.

(6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's

compliance with any requirement set forth in this chapter. The commissioner may rely upon the opinion, regarding provisions contained within this chapter, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this subsection, "engage" includes employment and contracting.

(7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this chapter; and the company must adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted under this title. [2016 c 142 § 13.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.110 Reserves—Principle-based valuation.** (1) A company must establish reserves, consistent with the commissioner's superseding authority to establish reserves pursuant to RCW 48.74.100(7), using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

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

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

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

(i) The assumption is prescribed in the valuation manual.

(ii) For assumptions that are not prescribed, the assumptions must:

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

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

(d) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

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

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

(b) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls

with respect to the principle-based valuation. These controls must be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification must be based on the controls in place as of the end of the preceding calendar year.

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

(3) A principle-based valuation may include a prescribed formulaic reserve component. [2016 c 142 § 14.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.120 Submission of data.** A company must submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual. [2016 c 142 § 15.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.

**RCW 48.74.130 Confidentiality of certain information—**  
**Exceptions.** (1) For purposes of this section, "confidential information" means:

(a) A memorandum in support of an opinion submitted under RCW 48.74.025 and 48.74.028 and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;

(b) All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under RCW 48.74.100(6). However, if an examination report or other material prepared in connection with an examination made under chapter 48.03 RCW is not held as private and confidential information, an examination report or other material prepared in connection with an examination made under RCW 48.74.100(6) is not "confidential information" to the same extent as if such examination report or other material had been prepared under chapter 48.03 RCW;

(c) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under RCW 48.74.110(2)(b) evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;

(d) Any principle-based valuation report developed under RCW 48.74.110(2)(c) and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such report; and

(e) Any documents, materials, data, and other information submitted by a company under RCW 48.74.120 (collectively, "experience data") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company identifying or personally identifiable [identifying] information, that is provided to or obtained by the commissioner (together with any "experience data," the "experience materials") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(2)(a) Except as provided in this section, a company's confidential information is confidential by law and privileged, is not subject to chapter 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

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

(c) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information:

(i) With other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries;

(ii) In the case of confidential information specified in subsection (1)(a) and (d) of this section only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials;

(iii) In the case of (c)(i) and (ii) of this subsection, when the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

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

(e) The commissioner may enter into agreements governing sharing and use of information consistent with this subsection (2).

(f) No waiver of any applicable privilege or claim of confidentiality in the confidential information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in (c) of this subsection.

(g) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection (2) is available and shall be enforced in any proceeding in, and in any court of, this state.

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

(3) Notwithstanding subsection (2) of this section, any confidential information specified in subsection (1)(a) and (d) of this section:

(a) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under RCW 48.74.025 and 48.74.028 or principle-based valuation report developed under RCW 48.74.110(2)(c) by reason of an action required by this chapter or by rules adopted under this chapter;

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

(c) Once any portion of a memorandum in support of an opinion submitted under RCW 48.74.025 and 48.74.028 or a principle-based valuation report developed under RCW 48.74.110(2)(c) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report are no longer confidential. [2016 c 142 § 16.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.