15.0398.03001

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1143

Introduced by

Representative Keiser

Senator Klein

A BILL for an Act to amend and reenact sections 26.1-33-18, 26.1-33-19, 26.1-33-20, 26.1-33-21, 26.1-33-22, 26.1-33-23, 26.1-33-24, 26.1-33-25, 26.1-33-27, and 26.1-33-28 of the North Dakota Century Code, relating to the standard nonforfeiture law for life insurance; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-33-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-18. ~~Required provisions relating to lapsing policyholder~~Nonforfeiture benefits.

In the case of policies issued after December 31, 1978, ~~no~~a life insurance policy, except as stated in section 26.1-33-28, may not be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements ~~hereinafter~~ specified in this section and are essentially in compliance with section 26.1-33-27:

1. In the event of default in any premium payment, the ~~company~~insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of the amount as may be hereinafter specified. In lieu of the stipulated paid-up nonforfeiture benefit, the ~~company~~insurer may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit that provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

2. Upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the ~~company~~insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of the amount as may be hereinafter specified.
3. A specified paid-up nonforfeiture benefit becomes effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.
4. If the policy has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, then the ~~company~~insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of the amount as may be hereinafter specified.
5. In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate or rates used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the ~~company~~insurer on the policy.
6. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of ~~this~~the state in which the policy is delivered. An explanation of the manner in which the cash surrender values and the paid-up

nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the ~~company~~insurer on the policy. If a detailed statement of the method of computation of the values and benefits shown in the policy is not stated in the policy, a statement that the method of computation has been filed with the commissioner. A statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

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

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

SECTION 2. AMENDMENT. Section 26.1-33-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-19. ~~Minimum~~Computation of cash surrender value.

1. Any cash surrender value available under a life insurance policy in the event of default in a premium payment due on any policy anniversary, whether or not required by section 26.1-33-18, must be an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:
   a. The then present value of the adjusted premiums as defined in sections 26.1-33-21 through 26.1-33-24 corresponding to premiums which would have fallen due on and after ~~such~~the anniversary; and
   b. The amount of any indebtedness to the ~~company~~insurer on the policy.
2. Any life insurance policy issued on or after the operative date of section 26.1-33-24, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection 1 must be an amount not less than the sum of the cash surrender value ~~as defined in that subsection~~ for an otherwise similar policy issued at the same age without the rider or supplemental

policy provision and the cash surrender value as defined in ~~that~~ subsection 1 for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision.

3. For any family ~~life insurance~~ policy issued on or after the operative date of section 26.1-33-24, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in subsection 1 must be an amount not less than the sum of the cash surrender value ~~as defined in that subsection~~ for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in ~~that~~ subsection 1 for a policy which provides only the benefits otherwise provided by ~~such~~ term insurance on the life of the spouse.

4. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by section 26.1-33-18, must be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the ~~company~~insurer on the policy.

SECTION 3. AMENDMENT. Section 26.1-33-20 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-20. ~~Minimum~~Computation of paid-up nonforfeiture ~~benefit~~benefits.

Any paid-up nonforfeiture benefit available under ~~a life insurance~~the policy in the event of default in a premium payment due on any policy anniversary must be such that its present value as of the anniversary must be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by sections 26.1-33-18 through 26.1-33-28 in the absence of the condition that premiums must have been paid for at least a specified period.

SECTION 4. AMENDMENT. Section 26.1-33-21 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-21. ~~Definition~~Calculation of adjusted premiums ~~used in obtaining minimum cash surrender value~~.

1. This section does not apply to policies issued on or after the operative date of section 26.1-33-24. Except as provided in subsection 3, the adjusted premiums for any policy must be calculated on an annual basis and must be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all the adjusted premiums equals the sum of:
   a. The then present value of the future guaranteed benefits provided for by the policy.
   b. Two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy.
   c. Forty percent of the adjusted premium for the first policy year.
   d. Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life ~~insurance~~ policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

   In applying the percentages specified in subdivisions c and d, no adjusted premium may be deemed to exceed four percent of the amount of insurance or level amount equivalent ~~uniform amount~~. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.
2. In the case of a ~~life insurance~~ policy providing an amount of insurance varying with duration of the policy, the equivalent ~~uniform~~level amount ~~of insurance~~ for the purpose of this section is deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the ~~date of issue~~inception of the ~~policy~~insurance as ~~do~~ the benefits under the policy.

3. The adjusted premiums for any life insurance policy providing term insurance benefits by rider or supplemental policy provision must be equal to ~~(a) the~~ :

   a. The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for the term insurance benefits are payable, by ~~(b) the~~ ;

   b. The adjusted premiums for such term insurance, ~~the foregoing items (a) and (b) must be~~subdivisions a and b being calculated separately and as specified in subsections 1 and 2 except that, for the purposes of subdivisions b, c, and d of subsection 1, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in ~~(b)~~subdivision b of subsection 1 must be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in ~~(a)~~subdivision a.

4. ~~This section does not apply to life insurance policies issued on or after the operative date of section 26.1-33-24~~Except as otherwise provided in sections 26.1-33-22 and 26.1-33-23, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28, for all policies of ordinary insurance, must be calculated on the basis of the commissioners 1941 standard ordinary mortality table. However, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to any age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance must be made on the basis of the 1941 standard industrial mortality table. All calculations must be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty percent of the rates of mortality according to the applicable table. For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

SECTION 5. AMENDMENT. Section 26.1-33-22 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-22. ~~Mortality and interest bases for~~Calculation of adjusted premiums ~~and present values~~ - Ordinary ~~insurance~~policies.

This section does not apply to ordinary policies issued on or after the operative date of section 26.1-33-24. In the case of ordinary policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28 must be calculated on the basis of the ~~commissioners'~~commissioners 1958 standard ordinary mortality table and the rate ~~or rates~~ of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits~~. No such~~, provided that the rate of interest may not exceed three and one-half percent per annum and a rate of interest ~~may exceed~~not exceeding five and one-half percent per year may be used; for policies issued after June 30, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per year may be used~~. For~~; and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not ~~greater~~more than those shown in the ~~commissioners'~~commissioners 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the ~~company~~insurer and approved by the commissioner. ~~This section does not apply to ordinary life insurance policies issued on or after the operative date of section 26.1-33-24.~~Upon the operative date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1966. After the filing of such notice, upon the specified date, which must be the operative date of this section for that insurer, this section becomes operative with respect to the ordinary policies issued by the insurer after that date. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1966.

SECTION 6. AMENDMENT. Section 26.1-33-23 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-23. ~~Mortality and interest bases for~~Calculation of adjusted premiums ~~and present values~~ - Industrial ~~insurance~~policies.

This section does not apply to industrial policies issued on or after the operative date of section 26.1-33-24. In the case of industrial policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28 must be calculated on the basis of the ~~commissioners'~~commissioners 1961 standard industrial mortality table and the rate ~~or rates~~ of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits~~. No such~~, provided that such rate of interest may not exceed three and one-half percent per annum and a rate of interest ~~may exceed~~not exceeding five and one-half percent per year may be used for policies issued after June 30, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per year may be used. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not ~~greater~~more than those shown in the ~~commissioners'~~commissioners 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the ~~company~~insurer and approved by the commissioner. ~~This section does not apply to industrial policies issued on or after the operative date of section 26.1-33-24.~~Upon the operative date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1968. After the filing of such notice, upon the specified date, which must be the operative date of this section for that insurer, this section must become operative with respect to the industrial policies issued after that date by the insurer. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1968.

SECTION 7. AMENDMENT. Section 26.1-33-24 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-24. ~~Determination of minimum values~~Calculations of adjusted premiums by the nonforfeiture net level premium method.

1. This section applies to all policies issued on or after the operative date of this section. Except as provided in subsection 7, the adjusted premiums for any policy must be

calculated on an annual basis and must be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums equals the sum of:

a. The then present value of the future guaranteed benefits provided for by the policy~~.~~;

b. One percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years~~.~~; and

c. One hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined.

In applying the percentage specified in subdivision c, no nonforfeiture net level premium may exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

2. The nonforfeiture net level premium is equal to the present value, at the date of issue of the life insurance policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of ~~such~~the policy on which a premium falls due.

3. In the case of life insurance policies that cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or that provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values must initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any ~~such~~ change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values must be recalculated on the

assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

4. Except as otherwise provided in subsection 7, the recalculated future adjusted premiums for any life insurance policy must be ~~such~~the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums equals the excess of:

   a. The sum of ~~the~~:

      (1) The then present value of the then future guaranteed benefits provided for by the policy~~, and the~~; plus

      (2) The additional expense allowance, if any; ~~over~~divided by

   b. The then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

5. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:

   a. One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

   b. One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

6. The recalculated nonforfeiture net level premium is equal to the result obtained by dividing the sum of~~:~~

   ~~a.~~ ~~The~~ the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the

policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred~~;~~ and

~~b.~~ ~~The~~ the present value of the increase in future guaranteed benefits provided for by the policy~~;~~ by

~~c.~~ ~~The~~ the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

7. Notwithstanding any other provision of this section to the contrary, in the case of a life insurance policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

8. All adjusted premiums and present values referred to in sections 26.1-33-18~~,~~ ~~26.1-33-19, 26.1-33-21~~ through ~~26.1-33-26, and~~ 26.1-33-28 must for all ordinary life insurance policies be calculated on the basis of the ~~commissioners'~~commissioners 1980 standard ordinary mortality table, or at the election of the ~~company~~insurer for any one or more specified plans of life insurance, the ~~commissioners'~~commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; must for all policies of industrial insurance be calculated on the basis of the ~~commissioners'~~commissioners 1961 standard industrial mortality table; and must for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. However:

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

b. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by section

26.1-33-18, must be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

c. ~~A company~~An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

d. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the ~~commissioners'~~commissioners 1980 extended term insurance table for ordinary life insurance policies and not more than the ~~commissioners'~~commissioners 1961 industrial extended term insurance table for industrial insurance policies.

e. For insurance issued on a substandard basis, the calculation of any ~~such~~ adjusted premiums and present values may be based on appropriate modifications of the tables.

f. ~~Any~~For policies issued before the operative date of the valuation manual, any commissioners standard ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the ~~commissioners'~~commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the ~~commissioners'~~commissioners 1980 extended term insurance table. For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the commissioner approves by rule any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for

policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

g. ~~Any~~For policies issued before the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the ~~commissioners'~~commissioners 1961 standard industrial mortality table or the ~~commissioners'~~commissioners 1961 industrial extended term insurance table. For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the commissioner approves by rule any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

9. The nonforfeiture interest rate is defined:

a. For policies issued before the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in ~~sections 26.1-35-01 through 26.1-35-10~~chapter 26.1-35, rounded to the nearer one quarter of one percent, but the nonforfeiture interest rate may not be less than four percent.

b. For policies issued on or after the operative date of the valuation manual the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be provided by the valuation manual.

10. Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

11. ~~This~~Upon the operative date of this section ~~applies to all life insurance policies issued after December 31, 1988, unless the insurance company, by written notice filed with the commissioner, opts for an earlier operative date~~, any insurer may file with the commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989, which must be the operative date of this section for the insurer. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1989.

SECTION 8. AMENDMENT. Section 26.1-33-25 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-25. ~~Determination of minimum value of policies with future premium determination - Indeterminable value~~Nonforfeiture benefits for indeterminate premium plans.

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~~insurer based on ~~then~~ estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in sections 26.1-33-18 through 26.1-33-24, then:

1. The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by sections 26.1-33-18 through 26.1-33-24;
2. The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; ~~and~~
3. The cash surrender values and paid-up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of sections 26.1-33-18 through 26.1-33-28, as determined by rules adopted by the commissioner; and

4. Notwithstanding any other provision in the laws of this state, any policy, contract, or certificate providing life insurance under any plan must be affirmatively approved by the commissioner before it can be marketed, issued, delivered, or used in this state.

SECTION 9. AMENDMENT. Section 26.1-33-27 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-27. Determination of minimum values after January 1, 1987.

1. This section, in addition to all other applicable sections of this law, applies to all policies issued after December 31, 1986. Any cash surrender value available under a life insurance policy in the event of default in a premium payment due on any policy anniversary must be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of:
   a. The greater of zero and the basic cash value hereinafter specified; and
   b. The present value of any existing paid-up additions less the amount of any indebtedness to the ~~company~~insurer under the policy.
2. The basic cash value is equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the ~~company~~insurer, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this chapter, corresponding to premiums that would have fallen due on and after ~~such~~the anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in section 26.1-33-19 or 26.1-33-21, whichever is applicable, shall be the same as are the effects specified in section 26.1-33-19 or 26.1-33-21, whichever is applicable, on the cash surrender values defined in that section.
3. The nonforfeiture factor for each policy year is an amount equal to a percentage of the adjusted premium for the policy year, as defined in section 26.1-33-21 or 26.1-33-24, whichever is applicable. Except as is required by subsection 4, the percentage:
   a. Must be the same percentage for each policy year between the second policy anniversary and the later of ~~the~~:

(1) The fifth policy anniversary; and ~~the~~

(2) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

b. Must be such that no percentage after the later of the two policy anniversaries specified in subdivision a may apply to fewer than five consecutive policy years.

4. No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in section ~~26.1-33-21 or~~ 26.1-33-24, ~~whichever is applicable,~~ were substituted for the nonforfeiture factors in the calculation of the basic cash value.

5. All adjusted premiums and present values referred to in this section must for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with sections 26.1-33-18~~, 26.1-33-19, 26.1-33-21~~ through ~~26.1-33-26, and~~ 26.1-33-28. The cash surrender values referred to in this section include any endowment benefits provided for by the policy.

6. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment must be determined in manners consistent with the manners specified for determining the analogous minimum amounts in sections 26.1-33-18 through 26.1-33-20, 26.1-33-24, and 26.1-33-26. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in subsections 1 through 6 of section 26.1-33-26 must conform with the principles of this section.

~~7. This section, in addition to all other applicable provisions of sections 26.1-33-18, 26.1-33-19, 26.1-33-21 through 26.1-33-26, and 26.1-33-28, applies to all policies issued on or after January 1, 1987.~~

SECTION 10. AMENDMENT. Section 26.1-33-28 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-28. ~~Exemptions from nonforfeiture provisions~~Exceptions.

Sections 26.1-33-18 through 26.1-33-27 do not apply to:

1. Reinsurance~~.~~;
2. Group insurance~~.~~;
3. Pure endowment~~.~~;
4. An annuity or reversionary annuity contract~~.~~;
5. A term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy~~.~~;
6. A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in sections 26.1-33-21 through 26.1-33-24 is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy~~.~~;
7. A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in sections 26.1-33-19 through 26.1-33-24, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year~~.~~; nor
8. A policy delivered outside this state through an insurance producer or other representative of the ~~company~~insurer issuing the policy.

For purposes of determining the applicability of sections 26.1-33-18 through 26.1-33-28, the age of expiry for a joint term life insurance policy is the age of expiry of the oldest life.

SECTION 11. CONTINGENT EFFECTIVE DATE. This Act is effective on the January first following the date the insurance commissioner certifies to the secretary of state and the legislative council that all of the following have occurred:

1. The valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote of the greater of at least forty-two members or three-fourths of the members voting.
2. The standard valuation law, as amended by the national association of insurance commissioners 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.
3. The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions:
   a. The fifty states of the United States of America;
   b. American Samoa;
   c. The United States Virgin Islands;
   d. The District of Columbia;
   e. Guam; and
   f. The Commonwealth of Puerto Rico.