Chapter 733

1985 REPLACEMENT PART

Accounting and Investments

CROSS REFERENCES

Definitions and general provisions applicable, 731.004 to 731.194

"Insurance Code" defined, 731.004

Investment in bonds of Oregon Mass Transit Financing Authority, 391.640

733.580

Federal Act, see 42 U.S.C. §§1450 to 1462

733.650

Home Loan Bank Act, 12 U.S.C. §§1421 to 1449

Post Office Department Property Act of 1954, 39 U.S.C §§901 to 909

Public Buildings Purchase Contract Act of 1954, 40 U.S.C. §§356, 357

ACCOUNTING

733.010 Assets allowed. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession or control of the insurer, including the true balance of any deposit in a solvent bank or trust company.

(2) Investments held in accordance with the Insurance Code, and due or accrued income items in connection therewith to the extent considered by the commissioner to be collectible.

(3) Premium notes, policy loans, liens and other like policy assets on life insurance policies and accrued interest thereon, in an amount not exceeding the loan value of the policy.

(4) Due premiums, deferred premiums, instalment premiums, and written obligations taken for premiums, to the extent allowed by the commissioner.

(5) The amount recoverable from a reinsurer which is approved or accepted under ORS 731.508 on ceded reinsurance, and amounts receivable on assumed reinsurance representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(6) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner to be available for the payment of losses and claims.

(7) The unaccrued portion of taxes paid prior to the due date on real property.

(8) Other assets considered by the commissioner to be available for the payment of losses and claims, at values determined by the commissioner. [1967 c.359 §208; 1971 c.321 §18; 1979 c.818 §1]

733.020 Assets not allowed. In addition to assets impliedly excluded by ORS 733.010, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets.

(2) Advances to officers, other than policy loans, whether secured or not, and advances to employes, agents and other persons on personal security only.

(3) Stock of such insurer owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(4) Tangible personal property, except such property as the insurer is otherwise permitted to acquire and retain as an investment under the Insurance Code and which is deemed by the commissioner to be available for the payment of losses and claims or which is otherwise expressly allowable, in whole or in part, as an asset.

(5) The amount, if any, by which the book value of any investment as carried in the ledger assets of the insurer exceeds the value thereof as determined under the Insurance Code. [1967 c.359 §209]

733.030 Liabilities in general. In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall be calculated in accordance with the Insurance Code and shall include:

(1) The amount necessary to pay all of its unpaid losses and claims incurred on or prior to the date of the statement, whether reported or unreported to the insurer, together with the expenses of adjustment or settlement thereof.

(2) For insurance other than specified in subsections (3) and (4) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, calculated in accordance with the Insurance Code.

(3) For life insurance policies:

(a) Reserves on life insurance benefits, valued according to the tables of mortality, rates of interest, and valuation methods applicable thereto which are adopted pursuant to the Insurance Code.

(b) Reserves for disability benefits, for both active and disabled lives.

(c) Reserves for accidental death benefits.

(d) Any additional reserves considered to be necessary by the commissioner.

(4) For health insurance policies, the amount of reserves required pursuant to ORS 733.080.

(5) Taxes, expenses and other obligations due or accrued at the date of the statement.

(6) Any additional reserves for asset valuation contingencies or loss contingencies required by the Insurance Code or considered to be necessary by the commissioner for the protection of policyholders and stockholders of the insurer. [1967 c.359 §210]

733.040 Reinsurance credit. The commissioner shall disallow as credit against the liabilities of a ceding insurer any reinsurance with an insurer not approved or accepted under ORS 731.508. [1967 c.359 §211]

733.050 Increase of inadequate reserves. If the commissioner determines that an insurer's reserves, however calculated or estimated, are inadequate, the commissioner shall require the insurer to maintain reserves in such additional amount as is needed to make them adequate. [1967 c 359 §212]

733.060 Unearned premium reserve. (1) Every insurer shall maintain an unearned premium reserve on all policies in force.

(2) The commissioner may require that such reserves shall be equal to the unearned portions of the gross premiums in force as calculated pro rata on each respective risk from the policy's date of issue. In the absence of such requirement, the unearned premium reserve shall be equal to the pro rata unearned portions of the gross premiums in force as calculated by an approximation method approved by the commissioner. After adopting a method of computing such reserves, an insurer shall not change methods without approval of the insurance supervisory official of the insurer's domicile.

(3) This section does not apply to:

(a) Marine and transportation insurance on trip risks not terminated.

(b) Health insurance.

(c) Title insurance.

(d) Home protection insurance under policies issued by a home protection insurer.

(e) Life insurance. [1967 c 359 §213; 1981 c.247 §9]

733.070 Unearned premium reserve for marine and transportation insurance trip risks. As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned. The commissioner may require the insurer to carry a reserve equal to 100 percent of premiums on trip risks written during the month ended as of the date of statement. [1967 c.359 §214]

733.080 Reserves for health insurance. For all health insurance policies the insurer shall maintain reserves which place a sound value on its liabilities under such policies and which are not less than the reserves according to appropriate standards set forth in rules issued by the commissioner. Except for policies of credit health insurance, such reserves for nondisabled lives shall not be less in the aggregate than the pro rata gross unearned premiums for such policies calculated in accordance with ORS 733.060. [1967 c 359 §215; 1971 c.231 §18]

733.090 Unearned premium reserve and fund for title insurance. (1) Each title insurer shall maintain a reserve for unearned premiums on its policies in force, which shall be charged as a liability in any determination of its financial condition. Such unearned premium liability shall be separate from and in addition to the insurer's liability for incurred but unpaid losses and loss expenses.

(2) The amount of the unearned premium reserve shall be determined as follows:

(a) For each domestic title insurer, the reserve shall equal three percent of all gross premiums on title insurance policies issued by it during the preceding 15 years.

(b) For each foreign or alien title insurer, the reserve relating to its policies insuring titles to real property in this state shall equal three percent of all gross premiums on such policies issued by it during the preceding 15 years. The portion of the unearned premium reserve of a foreign insurer relating to its policies insuring real property located elsewhere shall be as prescribed or permitted by the laws of the insurer's domicile, unless found by the commissioner to be inadequate for the reasonable protection of the insurer's policyholders in this state. In the event of such a finding, the insurer shall maintain unearned premium reserves upon such business thereafter written in an amount not less than the reserves required on its business in this state.

(3) A separate and distinct fund, known as the Title Insurance Unearned Premium Reserve Fund, shall be maintained by each title insurer in its treasury, as additional security to holders of its title insurance policies. The amount of the fund shall at least equal the amount of the unearned premium reserve liability determined in accordance with subsection (2) of this section. This fund shall be in addition to the insurer's deposit with the State Treasurer and deposits required to be maintained with officials of other jurisdictions. The fund, to the extent of the unearned premium reserve on business in this state, shall be invested as provided for funds of a domestic insurer, except that ORS 733.630, 733.670 and 733.690 shall not be applicable to investment of the fund. The remainder of the fund may be similarly invested, or may be invested as permitted by the laws of the insurer's domicile. The insurer shall keep a separate record of the cash and investments of the fund, giving complete identification of the assets belonging to the fund and showing full particulars as to withdrawals and additions. No title insurance policies shall be issued by an insurer during a period when its unearned pre-

mium reserve fund is below the required amount. [1967 c 359 §216]

733.095 Unearned premium reserve for home protection insurance. A home protection insurer shall maintain a reserve for unearned premiums, unpaid losses and claims incurred whether reported or unreported to the insurer and the expenses of adjustment or settlement of such losses and claims, in an aggregate amount of not less than 40 percent of the aggregate of premiums charged on the insurer's policies currently in force. [1981 c.247 §11]

733.100 Contingency reserve liability for mortgage insurance. A mortgage insurer shall establish a contingency reserve liability for the protection of policyholders against the effect of adverse economic cycles. The contingency reserve shall be maintained out of net premiums received (gross premiums less premiums returned to policyholders) less the unearned premium reserve applicable thereto. The amount of the contingency reserve shall equal 50 percent of all such net earned premiums on policies of mortgage insurance issued by the insurer during the preceding 10 years. [1967 c. 359 §217; 1969 c.692 §7]

733.110 Reserves on life insurance and annuity policies, in general. (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, or "reserves," for all outstanding life insurance policies of every insurer doing business in this state. The commissioner may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method, Commissioners Reserve Valuation Method or others) used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its United States business.

(2) In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise.

(3) In lieu of the valuation of reserves required by this section, the commissioner has the discretion to accept the valuation made by the insurer. In the case of any foreign or alien insurer the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any other jurisdiction if such valuation complies with the minimum standard provided in the Standard Valuation Law, and if that official accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner of this state when such certificate declares the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that official's jurisdiction.

(4) In no event shall an insurer's aggregate reserves for all life insurance policies to which ORS 733.123 applies, other than annuity and pure endowment policies and excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the Commissioners Reserve Valuation Method and the mortality tables and rates of interest used in calculating nonforfeiture benefits for such policies.

(5) Reserves for any category of policies or benefits may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standards provided in the Standard Valuation Law. In such case, with respect to the calculation of reserves for policies to which ORS 733.123 applies, other than annuity and pure endowment policies, the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in such policies.

(6) An insurer which previously has adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in the Standard Valuation Law may with the approval of the commissioner adopt another standard of valuation producing aggregate reserves not lower than those produced by the minimum standard. [1967 c 359 §218; 1977 c.320 §9; 1981 c.609 §3]

733.115 Establishing reserves for variable life insurance and annuity policies. Reserves for variable life insurance and annuity policies shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided, any mortality guarantees, and the valuation requirements of the Standard Valuation Law. [1973 c.435 §24, 1981 c.609 §4]

733.120 Minimum reserve valuation standard for life insurance policies issued before operative date of Standard Nonforfeiture Law. The minimum reserve valuation standard for all life insurance policies issued prior to the operative date defined in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance is the minimum standard provided by the laws of this state in effect immediately prior to that date. [Formerly 739.030; 1977 c.320 §10; 1981 c.609 §5]

733.123 Minimum reserve valuation standard for life insurance policies issued

on or after operative date of Standard Nonforfeiture Law. The minimum reserve valuation standard for all life insurance policies issued on or after the operative date defined in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance comprises the Commissioners Reserve Valuation Method defined in ORS 733.127, interest as provided in ORS 733.129 and 733.132 and the following tables:

(1) For all policies of ordinary life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

(a) The Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of ORS 743.216 (5). For any category of such policies issued on female risks, all modified net premiums and present values referred to in the Commissioners Reserve Valuation Method may be calculated according to an age not more than six years younger than the actual age of the insured.

(b) The Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of ORS 743.216 (5) but prior to the operative date of ORS 743.215 as part of the Standard Nonforfeiture Law for Life Insurance. For any category of such policies issued on female risks, all modified net premiums and present values referred to in the Commissioners Reserve Valuation Method may be calculated according to an age not more than six years younger than the actual age of the insured.

(c) For such policies issued on or after the operative date of ORS 743.215 as part of the Standard Nonforfeiture Law for Life Insurance:

(A) The Commissioners 1980 Standard Ordinary Mortality Table;

(B) At the option of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors instead of such table without Ten-Year Select Mortality Factors; or

(C) Any mortality table for ordinary insurance adopted after 1980 by the National Association of Insurance Commissioners that is approved under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such policies.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies:

(a) The 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of ORS 743.216 (7).

(b) For such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any mortality table for industrial life insurance adopted after 1980 by the National Association of Insurance Commissioners that is approved under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such policies.

(3) For individual annuity and pure endowment policies, excluding any disability and accidental death benefits in such policies:

(a) The 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner, for such policies issued prior to the operative date defined in ORS 733.134 for such policies.

(b) For such policies issued on or after such operative date, the 1971 Individual Annuity Mortality Table, any individual annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such policies, or any modification of these tables approved by the commissioner.

(4) For annuity and pure endowment benefits purchased under group annuity and pure endowment policies, excluding any disability and accidental death benefits purchased under such policies:

(a) The Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment policies, for such benefits purchased prior to the operative date defined in ORS 733.134 for such policies.

(b) For such benefits purchased on or after such operative date, the 1971 Group Annuity Mortality Table, any group annuity mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such benefits, or any modification of these tables approved by the commissioner.

(5) For total and permanent disability benefits in or supplementary to ordinary policies, the following tables, which shall for active lives be

combined with a mortality table permitted for calculating the reserves for life insurance policies:

(a) For policies issued prior to January 1, 1961, the Class (3) Disability Table (1926).

(b) For policies issued on or after January 1, 1961, but prior to January 1, 1966, the Class (3) Disability Table (1926) or, at the option of the insurer, 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.

(c) For policies 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 under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such benefits.

(6) For accidental death benefits in or supplementary to policies, the following tables, which shall be combined with a mortality table permitted for calculating the reserves for life insurance policies:

(a) For policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table.

(b) For policies issued on or after January 1, 1961, but prior to January 1, 1966, the Inter-Company Double Indemnity Mortality Table or, at the option of the insurer, the 1959 Accidental Death Benefits Table.

(c) 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 under rules issued by the commissioner for use in determining the minimum reserve valuation standard for such benefits.

(7) For group life insurance, life insurance issued on a substandard basis and other special benefits, such tables as may be approved by the commissioner. [Formerly 733 130]

733.125 Standard Valuation Law. ORS 733.110, 733.120, 733.123, 733.127, 733.129, 733.132, 733.134, 733.136 and this section may be cited as the Standard Valuation Law. [1981 c 609 §2]

733.127 Reserve Valuation Method. The reserve valuation method which shall be used to calculate the minimum reserves for policies to which ORS 733.123 applies is defined by this section, and may be cited as the Commissioners Reserve Valuation Method. The applicable method for a given benefit plan and year of policy issue is determined by one or more of the following subsections, as provided therein:

(1) Except as otherwise provided in subsection (4) of this section, which relates to gross premium deficiency reserves, the reserve according to the Commissioners Reserve Valuation Method for the life insurance and endowment benefits of a policy providing for a uniform amount of insurance and requiring the payment of uniform premiums is the excess, if any, of the present value at the valuation date of such future guaranteed benefits provided for by the policy over the present value at the valuation date of all future modified net premiums for these benefits. The modified net premiums for these policy benefits shall be such uniform percentage of the respective policy premiums charged each year for these benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall equal the sum of the present value at the policy issue date of these policy benefits and "A" minus "B," where these amounts are defined as follows:

(a) "A" equals the net level annual premium equal to the present value, at the date of issue of the policy, of these policy benefits provided for after the first policy year, divided by the present value at the policy issue date of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, "A" shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the subject policy.

(b) "B" equals the net one year term premium for these benefits provided for in the first policy year.

(2) Except as otherwise provided in subsections (3) and (4) of this section, reserves according to the Commissioners Reserve Valuation Method shall be calculated by a method consistent with the principles of subsection (1) of this section for:

(a) Life insurance policies providing a varying amount of insurance or requiring the payment of varying premiums. Any extra premiums charged because of impairments or special hazards shall, however, be disregarded in the determination of modified net premiums.

(b) Group annuity and pure endowment policies issued in conjunction with a retirement or deferred compensation plan established or maintained by an employer, an employe organization, or both. However, this paragraph does not apply to a retirement or deferred compensation plan that provides individual retirement accounts or individual retirement annuities governed by section 408 of the federal Internal Revenue Code.

(c) Disability and accidental death benefits in all policies.

(d) All other benefits that are not otherwise provided for in this section.

(3) (a) This subsection applies to a policy otherwise subject to subsections (1) and (2) of this section:

(A) Which is issued on or after January 1, 1986;

(B) For which the policy premium charged in the first policy year exceeds that in the second policy year, such difference being referred to in this section as the "excess first year premium";

(C) For which no additional benefit commensurate with the excess first year premium is provided in the first policy year; and

(D) Which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess first year premium.

(b) For such a policy, the "assumed ending date" as used in this section means the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess first year premium.

(c) Except as provided in subsection (4) of this section, the reserve according to the Commissioners Reserve Valuation Method for a policy to which this subsection applies, for each policy anniversary on or before the assumed ending date, is the greater of:

(A) The reserve calculated under subsections (1) and (2) of this section; and

(B) The reserve calculated under subsections (1) and (2) of this section but with:

(i) The amount defined by paragraph (a) of subsection (1) of this section being reduced by 15 percent of the amount of the excess first year premium;

(ii) All present values of benefits and premiums being determined without reference to benefits or premiums provided for by the policy after the assumed ending date;

(iii) The policy being considered to mature on the assumed ending date as an endowment; and

(iv) The cash surrender value provided on the assumed ending date being considered as an endowment benefit.

(4)(a) If in any policy year the gross premium charged by an insurer on a policy, other than an annuity or pure endowment policy, is less than the valuation net premium for the policy calculated by the method actually used by the insurer in determining the reserve for the policy but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for that policy according to the Commissioners Reserve Valuation Method is the reserve calculated according to the mortality table, rate of interest and method actually used by the insurer for that policy, or the reserve calculated by the method actually used for that policy 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 policy year for which the valuation net premium exceeds the actual gross premium, whichever reserve is greater.

(b)(A) This paragraph applies to a policy to which subsection (3) of this section applies.

(B) For such a policy, paragraph (a) of this subsection shall be applied as if the method actually used by the insurer in determining the reserve for the policy were the method described in subsections (1) and (2) of this section rather than subsection (3) of this section. The minimum reserve at each policy anniversary of the policy according to the Commissioners Reserve Valuation Method shall be the greater of the minimum reserve calculated in accordance with subsection (3) of this section and the minimum reserve calculated in accordance with this subsection.

(5)(a) This subsection applies to an annuity or pure endowment policy other than a policy to which paragraph (b) of subsection (2) of this section applies. The reserve method defined by this subsection may also be referred to as the Commissioners Annuity Reserve Method.

(b) The reserve according to the Commissioners Reserve Valuation Method for a policy to which this subsection applies, excluding disability and accidental death benefits in the policy, is the greatest excess, for policy periods starting at the date of valuation and running to successively later policy year ends, of the respective present value of future guaranteed benefits, including guaranteed nonforfeiture benefits, over the respective present value of future valuation considerations derived from future gross considerations required to be paid before the end of the respective period.

(c) The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in the policy for determining guaranteed benefits. The valuation considerations shall be those portions of the respective gross considerations that are applied under the terms of the policy to determine nonforfeiture values.

(6)(a) This subsection applies to:

(A) A life insurance policy which provides for a determination from time to time by the insurer of the amounts of future premiums on the basis of current estimates of future experience.

(B) A life insurance or annuity policy or benefit which is of such a nature that the minimum reserves cannot reasonably be determined by the methods described in subsections (1) to (5) of this section.

(b) The minimum reserve for such a policy or benefit according to the Commissioners Reserve Valuation Method shall be a reserve that complies with such rules as may be issued by the commissioner that require the minimum reserve to be:

(A) Appropriate in relation to the benefits and the pattern of premiums for that policy or benefit; and

(B) Calculated by a method which is consistent with the principles of the Standard Valuation Law. [1981 c.609 §7]

733.129 Interest rates for minimum reserve valuation standard. (1) The interest rates used in the minimum reserve valuation standard shall be, for the policies and benefits specified in this subsection, the rates defined in this section as applicable to the particular year of issue of the policy or benefit or year of increase of the policy fund. Such rates, referred to in the Standard Valuation Law and the Standard Nonforfeiture Law for Life Insurance as "calendar year statutory valuation interest rates," shall apply to:

(a) Life insurance policies issued on or after the operative date defined in ORS 743.215 as part of the Standard Nonforfeiture Law for Life Insurance.

(b) Individual annuity and pure endowment policies issued on or after January 1, 1982.

(c) Annuity and pure endowment benefits purchased under group annuity and pure endowment policies on or after January 1, 1982.

(d) The net increase, if any, in each year after January 1, 1982, in the amounts held under guaranteed interest policies.

(2)(a) Except as provided in paragraph (b) of this subsection, the calendar year statutory valuation interest rate, "I," shall be determined as follows with the result rounded to the nearer one-quarter of one percent:

(A) For life insurance,
$I = .03 + W (R_1 - .03) + - (R_2\ .09)$
(referred to as "formula A"),
where R_1 is the lesser of R and .09,
R_2 is the greater of R and .09,
the reference interest rate defined in
subsection (4) of this section, and
W is the weighting factor defined in subsection (3) of this section.

(B) For single premium immediate annuities and for immediate annuity benefits, involving life contingencies, arising from single premium deferred and annual premium annuities with cash settlement options or from guaranteed interest policies with cash settlement options,
$I = .03 + W (R - .03)$
(referred to as "formula B"),
where R and W have the same meaning
as in subparagraph (A) of this
paragraph.

(C) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, valued on an issue-year basis:

(i) Except as provided in subparagraph (B) of this paragraph, formula A for "I" shall apply to such annuities and guaranteed interest policies with guarantee durations in excess of 10 years; and

(ii) Formula B for "I" shall apply to such annuities and guaranteed interest policies with guarantee durations of 10 years or less.

(D) For single premium deferred and annual premium annuities with no cash settlement options and for guaranteed interest policies with no cash settlement options, formula B for "I" shall apply.

(E) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, valued on a change-in-fund basis, formula B for "I" shall apply.

(b) For life insurance policies, if the calendar year statutory valuation interest rate, "I," for a particular subject issue year as determined by formula A differs from "I" as determined by this subsection for policies issued in the last preceding issue year by less than one-half of one percent, "I" for the subject issue year shall equal "I" as determined by this subsection for the last preceding issue year. For purposes of applying this paragraph, "I" for issue year 1980 for life insurance policies shall be determined, and considered "determined by this subsection," by using formula A and a reference interest rate of 8.92 percent, and "I" shall be determined according to this subsection for each year after 1980 regardless of when ORS 743.215 becomes operative as part of the Standard Nonforfeiture Law for Life Insurance.

(c) An insurer may elect to value annuities with cash settlement options and guaranteed interest policies with cash settlement options on either an issue-year basis or a change-in-fund basis. Single premium deferred and annual premium annuities with no cash settlement options and guaranteed interest policies with no cash settlement options must be valued on an issue-year basis. As used in this section:

(A) The "issue-year" basis of valuation means a valuation basis under which the interest rate used in the minimum reserve valuation standard is fixed for the entire duration of the annuity or guaranteed interest policy at the calendar year valuation interest rate for the year of issue of the policy; and

(B) The "change-in-fund" basis of valuation means a valuation basis under which the interest rate used in the minimum reserve valuation standard is applicable to each change in the fund held under the annuity or guaranteed interest policy and is fixed at the calendar year valuation interest rate for the calendar year of such change.

(3) The weighting factor, "W," referred to in the formulas for "I" in subsection (2) of this section shall be determined as follows:

(a) For life insurance,

Guarantee Duration	Weighting Factors (W)
10 years or less	.50
More than 10 years, but not more than 20 years	.45
More than 20 years	.35

where "guarantee duration" means the maximum number of years the life insurance can remain in force under the original policy 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.

(b) For single premium immediate annuities and for immediate annuity benefits, involving life contingencies, arising from single premium deferred and annual premium annuities with cash settlement options or from guaranteed interest policies with cash settlement options,

$$W = .80$$

(c) For single premium deferred and annual premium annuities and guaranteed interest policies, except as provided in paragraph (b) of this subsection, "W" shall be determined from subparagraphs (A), (B) and (C) of this paragraph, according to the rules and definitions in subparagraphs (D) and (E) of this paragraph:

(A) For annuities and guaranteed interest policies valued on an issue-year basis,

	Weighting Factor (W) by Plan Type		
Guarantee Duration	Plan A	Plan B	Plan C
5 years or less	.80	60	.50
More than 5 years, but not more than 10 years	.75	.60	.50
More than 10 years, but not more than 20 years	.65	.50	.45
More than 20 years	.45	.35	.35
(B) For annuities and guaranteed interest policies valued on a change-in-fund basis, "W" equals the factor shown in subparagraph (A) of this paragraph increased by.	.15	.25	.05
(C) For annuities with cash settlement options and guaranted interest policies with cash settlement options, valued on an issue-year basis, which do not guarantee interest rates on considerations which are received more than one year after policy issue, and for annuities and guaranteed interest policies, valued on a change-in-fund basis, which do not guarantee interest rates on considerations which are received more than one year beyond the valuation date, "W" equals the factor shown in subparagraph (A) of this paragraph, or derived in subparagraph (B) of this paragraph if applicable, increased by·	.05	.05	.05

(D) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, the "guarantee duration" used in determining "W" is the number of years for which the policy guarantees interest rates which are in excess of the calendar year statutory valuation interest rate that applies to life insurance policies of the same issue year which have a "guarantee duration" as defined for life insurance which is in excess of 20 years. For single premium deferred and annual premium annuities with no cash settlement options and guaranteed interest policies with no cash settlement options, the "guarantee duration" used in determining "W" is the number of years from the date of policy issue to the date annuity benefits are scheduled to commence.

(E) "Plan Type" as used in determining "W" is defined as follows:

(i) Under Plan Type A, at all times the policyholder either cannot withdraw funds or may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; (2) without such an adjustment but in instalments over five years or more; or (3) as an immediate life annuity.

(ii) Under Plan Type B, before expiration of the interest rate guarantee the policyholder either cannot withdraw funds or may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) without such an adjustment but in instalments over five years or more. After the expiration of the interest rate guarantee, funds may be withdrawn without such an adjustment in a single sum or in instalments without a minimum period.

(iii) Under Plan Type C, the policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or in instalments over less than five years either: (1) without an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or (2) subject only to a fixed surrender charge stipulated in the policy as a percentage of the funds.

(4)(a) The reference interest rate, "R," referred to in the formulas for "I" in subsection (2) of this section shall be the applicable one of the following averages except as provided in paragraph (b) of this subsection:

(A) For life insurance, the lesser of the average over the period of 36 months and the average over the period of 12 months, each ending on June 30 of the year next preceding the year of policy issue, of the Moody's Corporate Bond Yield Average Monthly Average Corporates as published by Moody's Investors Service, Inc.

(B) For single premium immediate annuities and for immediate annuity benefits, involving life contingencies, arising from single premium deferred and annual premium annuities with cash settlement options or from guaranteed interest policies with cash settlement options, the average over the period of 12 months, ending on June 30 of the year of policy issue, of the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc.

(C) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, valued on an issue-year basis, with a guarantee duration as defined for determining "W" in excess of 10 years, except as provided in subparagraph (B) of this paragraph, the lesser of the average over the period of 36 months and the average over the period of 12 months, each ending on June 30 of the year of policy issue, of the Moody's Corporate Bond Yield Average Monthly Average Corporates as published by Moody's Investors Service, Inc.

(D) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, valued on an issue-year basis, with a guarantee duration as defined for determining "W" of 10 years or less, except as provided in subparagraph (B) of this paragraph, the average over the period of 12 months, ending on June 30 of the year of policy issue, of the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc.

(E) For single premium deferred and annual premium annuities with no cash settlement options and for guaranteed interest policies with no cash settlement options, except as provided in subparagraph (B) of this paragraph, the average over the period of 12 months, ending on June 30 of the year of policy issue, of the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc.

(F) For single premium deferred and annual premium annuities with cash settlement options and guaranteed interest policies with cash settlement options, valued on a change-in-fund basis, except as provided in subparagraph (B) of this paragraph, the average over the period of 12 months, ending on June 30 of the year of the change in the fund, of the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc.

(b) In the event the Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event the National Association of Insurance Commissioners determines that the Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, an alternative method for determination of the reference interest rate which is adopted by the National Association of Insurance Commissioners and by rules issued by the commissioner may be substituted for the method provided in paragraph (a) of this subsection. [1981 c.609 §9]

733.130 [Formerly 739.035; 1969 c 431 §1; 1973 c.636 §1; 1977 c.320 §11; 1981 c.609 §6; renumbered 733.123]

733.132 Interest rates in minimum standard for valuation of insurance policies. For life insurance, this section applies only to policies issued on or after the operative date defined in ORS 743.204 for the Standard Nonforfeiture Law for Life Insurance, but prior to the operative date defined in ORS 743.215 as part of such law. For annuity and pure endowment policies, this section applies only to policies issued on or after the operative date defined in ORS 743.204 but prior to January 1, 1982. For the purpose of this section the definition of "policy" is modified as provided in ORS 733.136 (2). The interest rates in the minimum reserve valuation standard for all such policies are as follows:

(1) For life insurance policies, excluding annuity and pure endowment policies, issued:

(a) Prior to January 1, 1969—three and one-half percent.

(b) From January 1, 1969, to December 31, 1973:

(A) For single premium policies—four percent.

(B) For other policies—three and one-half percent.

(c) From January 1, 1974, to December 31, 1977—four percent.

(d) On or after January 1, 1978:

(A) For single premium policies—five and one-half percent.

(B) For other policies—four and one-half percent.

(2) For annuity and pure endowment policies issued:

(a) Prior to January 1, 1969—three and one-half percent.

(b) From January 1, 1969, to the operative date defined in ORS 733.134 for the use of a 1971 Annuity Mortality Table for such policies:

(A) For single premium immediate policies, and deferred annuity and pure endowment benefits purchased under group annuity and pure endowment policies—four percent.

(B) For other policies—three and one-half percent.

(c) From the operative date defined in ORS 733.134 for such policies to December 31, 1977:

(A) For single premium immediate policies, and deferred annuity and pure endowment benefits purchased under group annuity and pure endowment policies—six percent.

(B) For other policies—four percent.

(d) On or after January 1, 1978, or the operative date defined in ORS 733.134 for such policies if later:

(A) For single premium immediate policies, and deferred annuity and pure endowment benefits purchased under group annuity and pure endowment policies—seven and one-half percent.

(B) For individual single premium deferred annuity and pure endowment policies—five and one-half percent.

(C) For other policies—four and one-half percent. [1973 c.636 §3; 1977 c.320 §12, 1981 c.609 §8]

733.134 Election by insurer to use 1971 Individual Annuity Mortality Table. An insurer may file with the commissioner a written notice of its election to use:

(1) The 1971 Individual Annuity Mortality Table, or a modification thereof approved by the commissioner, after a specified operative date no earlier than January 1, 1974, and no later than January 1, 1979, for individual annuity and pure endowment policies. The operative date for such use shall be January 1, 1979, if no specified operative date is so elected.

(2) The 1971 Group Annuity Mortality Table, or any modification thereof approved by the commissioner, after a specified operative date no earlier than January 1, 1974, and no later than January 1, 1979, for annuity and pure endowment benefits purchased under group annuity and pure endowment policies. The operative date for such use shall be January 1, 1979, if no specified operative date is so elected. [1973 c.636 §4; 1981 c 609 §10]

733.136 Certain life insurance benefits as annuity or pure endowment policies; date of purchase as date of issuance. (1) For the purposes of the Standard Valuation Law, and notwithstanding ORS 731.154 and 731.170, benefits under optional modes of settlement of life insurance proceeds are considered annuity or pure endowment policies to the extent such benefits substantially have the actuarial characteristics of such policies.

(2) For the purposes of the Standard Valuation Law, annuity and pure endowment benefits purchased under group annuity and pure endowment policies, and life insurance benefits purchased on a single premium basis under group life insurance policies, are considered policies issued on the date of such purchases. [1973 c.636 §5; 1981 c 609 §11]

733.140 Disallowance of "wash" transactions. (1) The commissioner shall disallow as an asset or as a credit against liabilities any reinsurance found by the commissioner after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding insurer's financial condition as of the date of any financial statement of the insurer. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception.

(2) The commissioner shall disallow as an asset any deposit, funds or other assets of the insurer found by the commissioner after a hearing thereon:

(a) Not to be in good faith the property of the insurer, and

(b) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies, and

(c) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as of the date of any financial statement of the insurer. [1967 c.359 §221]

733.150 Alternative accounting for assets and liabilities. Assets may be allowed as deductions from corresponding liabilities, liabilities may be charged as deductions from assets, deductions from assets may be charged as liabilities, and deductions from liabilities may be allowed as assets, in accordance with the form of annual statement prescribed by the commissioner, or otherwise in the discretion of the commissioner. [1967 c 359 §222]

733.160 Valuation of various assets. (1) All amply secured obligations having a fixed term and rate of interest held by an insurer shall be valued on either the basis specified in paragraph (a) or (b) of this subsection, as elected by the insurer:

(a) If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to a method of valuation elected by the insurer and approved by the commissioner. Unless otherwise provided by valuation approved by the commissioner, no obligation shall be carried at a value above the call price for the entire issue during any period within which the obligation may be so called; or

(b) At market value or book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to paragraph (a) of this subsection.

(c) Purchase price shall in no case be a higher amount than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such obligations.

(2)(a) Except as provided in paragraph (b) of this subsection, securities other than obligations held by an insurer may be valued at their market value if market value, in the judgment of the commissioner, can reasonably be ascertained. Otherwise, they shall be valued at their fair value determined by a generally accepted method of appraisal or, in the insurer's discretion, at cost when cost is lower than market value or such appraised value. Preferred or guaranteed stocks while paying full dividends may be carried at a fixed value in lieu of market value, according to a method of computation approved by the commissioner.

(b) Securities, other than obligations, whose issuer is a subsidiary of, or is under common ownership or control with, the holding insurer shall be valued according to a method of computation approved by the commissioner.

(3) Real property shall be valued as follows:

(a) Real property acquired pursuant to a mortgage loan or contract of sale shall be valued at an amount not greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall be valued at an amount not in excess of the cost of the acquired property and the cost of improvements thereafter made by the insurer, less a reasonable allowance for depreciation.

(4) Purchase money mortgages on real property referred to in paragraph (a) of subsection (3) of this section shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or 90 percent of the fair value of such real property, whichever is less.

(5) Other assets shall be valued at cost of acquisition less any repaid portion thereof, unless the commissioner determines that another value is proper. [1967 c.359 §223, 1971 c.231 §19]

733.170 Accounts and records. An insurer shall keep its books, records, accounts and transaction source data in such manner that the commissioner may readily verify its statements of financial condition and ascertain whether the insurer is unimpaired, has given proper treatment to policyholders and has complied with the Insurance Code. [Formerly 738.430]

733.180 [Formerly 739 075, repealed by 1973 c 435 §27]

733.190 [Formerly 739.080; repealed by 1973 c.435 §27]

733.200 [Formerly 739 085; repealed by 1973 c 435 §27]

733.210 Commissioner's determinations. In making any determination or prescribing rules relating to items such as are reported in the form of annual statement required to be filed by an insurer, the commissioner shall give consideration to the pertinent recommendations made from time to time by the National Association of Insurance Commissioners, and to customary and general practice in insurance accounting. [1967 c.359 §228]

733.220 Establishment and regulation of separate accounts to fund life insurance or annuities. (1) A domestic insurer authorized to transact life insurance may establish one or more separate accounts and may allocate thereto amounts, including but not limited to proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities or benefits incidental thereto, payable in fixed or variable amounts or both.

(2) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account without regard to other income, gains and losses of the insurer.

(3) Except with the approval of the commissioner, and under the conditions the commissioner may prescribe as to investments and other matters that shall recognize the guaranteed nature of the benefits, assets representing reserves for benefits guaranteed as to dollar amount and duration, and for funds guaranteed as to principal amount or stated rate of interest, shall not be maintained in a separate account.

(4) Unless otherwise approved by the commissioner, and notwithstanding ORS 733.160, assets allocated to a separate account shall be valued at their market value on the date of valuation or, if there is no readily available market, they shall be valued as provided under the terms of the policy, the rules or other written agreement applicable to the separate account. Except as may be otherwise prescribed by the commissioner under subsection (3) of this section, however, the portion if any of the assets of a separate account equal to the insurer's reserves for guaranteed benefits and funds shall be valued in accordance with the rules applicable to the insurer's general assets.

(5) Amounts allocated to a separate account in the exercise of the power granted by this section are owned by the insurer, and the insurer is not, nor shall it hold itself out to be, a trustee with respect to such amounts. If, and to the extent, it is so provided under the applicable policies, the portion of the assets of a separate account which equals the reserves and other policy liabilities for such account shall not be chargeable with liabilities arising out of any other business the insurer conducts.

(6) No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(a) In the case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the policies applicable to the account;

(b) In the case of other transfers, the commissioner has approved the transfer as being equitable; and

(c) The transfer is made in the form of cash or, with the approval of the commissioner, securities having a readily determinable market value.

(7) The same separate account may not be used for both variable annuities and variable life insurance.

(8) The insurer shall maintain in each separate account assets with a value at least equal to the reserves and other policy liabilities for such account. [1973 c.435 §6]

733.230 Transactions of separate accounts registered with Securities and Exchange Commission; application of laws and rules to members of separate account management committee. (1) Notwithstanding any other provisions of law a domestic insurer may:

(a) With respect to a separate account registered with the federal Securities and Exchange Commission as a unit investment trust, exercise voting rights, in connection with any securities of a regulated investment company registered under the Federal Investment Company Act of 1940 and held in such account, in accordance with instructions from persons having interests in such account, ratably as determined by the insurer; and

(b) With respect to a separate account registered with the federal Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which need not be otherwise affiliated with the insurer and may be elected by the vote of persons having interests in such account, ratably as determined by the insurer. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage the separate account and the investment of its assets.

(2) The insurer or such committee, board or other body may make such other provisions in respect to the separate account as may be considered necessary to comply with any applicable federal or state laws, if the commissioner approves such provisions as not being hazardous to the insurer's policyholders or the public in this state.

(3) Any provision of the Insurance Code or rule of the commissioner applicable to the officers or directors of an insurer and relating to conflicts of interest will also apply to members of a separate account's committee, board or other similar body. No officer or director of an insurer nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account. [1973 c.435 §7]

INVESTMENTS

733.510 Investments of insurers. (1) Funds of a domestic insurer shall be invested, reinvested and used in the manner and subject to the conditions, restrictions and limitations set forth in ORS 733.510 to 733.780.

(2) Investments of a foreign or alien insurer which would be authorized for a like domestic insurer shall be allowed as assets in any determination of its financial condition. Other investments of a foreign or alien insurer which are authorized by the laws of its domicile may be so allowed at the discretion of the commissioner. [Formerly 738.235]

733.520 Current operating requirements exempted. Funds of an insurer necessary to satisfy normal current operating requirements are not subject to ORS 733.510 to 733.780. Normal current operating requirements include, but are not limited to, the acquisition of personal property necessary or convenient in the operation of the insurer's business. [1967 c.359 §230]

733.530 "Corporation," "sovereign," "political subdivision" defined. As used in ORS 733.510 to 733.780:

(1) "Corporation" means a corporation, joint stock association or business trust organized and existing under the laws of a sovereign.

(2) "Sovereign" means the United States, or a state, or Canada or a province thereof.

(3) "Political subdivision" means an incorporated county, city, town, village, municipality, or subdivision thereof, or a public corporation, district, agency, commission, authority or instrumentality, or subdivision thereof. [1967 c.359 §231]

733.540 "Obligation" defined. As used in ORS 733.510 to 733.780, "obligation" means a bond, debenture, note, warrant, certificate or other evidence of indebtedness. [1967 c.359 §232]

733.550 "Amply secured obligation" defined. As used in ORS 733.510 to 733.780, "amply secured obligation" means an obligation which is not in default and as to which no default is imminent, and which satisfies the requirements of one or more of the following subsections:

(1) An obligation of a sovereign or political subdivision thereof, if it is issued, assumed or guaranteed by the governmental unit involved and is payable either from:

(a) Taxes levied or which may be levied by such governmental unit; or

(b) Adequate special revenues pledged or otherwise appropriated or required by law to be used for the purpose of such payment, provided the law authorizing the issuance of the obligation requires that adequate rates be fixed, maintained and collected at all times so as to produce sufficient revenue or earnings to pay all operating expenses, maintenance charges, and the principal, interest and dividends on the obligation. An obligation payable solely out of special assessments on real property benefited by local improvements shall not be considered amply secured unless the total amount so payable is less than 50 percent of the market value of the real property (including any improvements thereon) and constitutes a lien on such property.

(2) An obligation issued, assumed or guaranteed by a corporation, if the corporation is solvent, has not been in default on any of its obligations during the preceding three years, and if the obligation is secured by the pledge of property the market value of which exceeds the amount of the obligation by 25 percent or more. Obligations which are the subject of ORS 733.580 and 733.600 are not included within the provisions of this subsection.

(3) An obligation found to be amply secured under regulations duly promulgated by the commissioner. In making such regulations the commissioner shall give consideration to regulations pertaining to amply secured obligations issued from time to time by the National Association of Insurance Commissioners, and shall consider the financial condition of the issuing, assuming or guaranteeing corporation as well as the existence or absence of any pledge of property as security. [1967 c.359 §233]

733.560 "Unencumbered" defined. As used in ORS 733.510 to 733.780, "unencumbered" means the nonexistence of any lien, burden or charge having priority over the lien securing the insurer's investment. The following shall not be considered encumbrances on real property or leasehold interests therein:

(1) Reservations of mineral, oil or timber rights, easements, rights of way, sewer rights or rights of walls.

(2) Liens for taxes or assessments not delinquent.

(3) Building restrictions or other restrictive covenants common to the community.

(4) Where the loan is secured by a lien upon real property, a lease under which rents or profits are reserved to the owner, if in any event the security for the loan would be a first lien upon the real property except for such lease.

(5) Where the loan is secured by a lien on a leasehold, a prior lien on the real property, provided the security for the loan is a first lien upon the leasehold and there exists no provision preventing the insurer from continuing the lease in force for the duration of the lease or no condition or rights of reentry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed so long as the lessee's obligations under the lease are discharged. [1967 c.359 §234]

733.570 "Improved real property" defined. As used in ORS 733.510 to 733.780, "improved real property" means:

(1) Farmland used for tillage, crop or pasture;

(2) Real estate on which permanent improvements, or improvements under construction or in process of construction, suitable for residence, institutional, commercial or industrial use, are situated; and

(3) Real estate to be developed for the use or uses set forth in subsection (2) of this section on which improvements, or improvements under construction or in process of construction, such as streets, sidewalks, sewers and utilities which will become an integral part of such development, are situated or abut. [1967 c.359 §235]

733.575 Prohibited use of funds as compensating balances. Except as provided in ORS 733.578, funds of an insurer shall not be used as compensating balances for loans to other persons, or otherwise pledged for the benefit of other persons. [1975 c.232 §2]

733.578 Conditions necessary for investments used to provide compensating balances. Investments of an insurer of the kind described in ORS 733.650 (4) that are made for the purpose of providing compensating balances for other persons will not be prohibited by ORS 733.575 or 733.780 while the following conditions are met:

(1) The investment is made in the name of and remains the sole property of the insurer;

(2) The investment is not subject to appropriation in any manner by any person, including the person for whom the compensating balance is being provided, the institution in which the deposit is made and other creditors of such persons;

(3) The insurer holds an irrevocable written waiver from the depositary institution, in a form satisfactory to the commissioner, waiving all right, title and interest in or to any set-off, banker's or similar lien or other security interest in such investment or any funds represented thereby;

(4) The investment is unrestricted as to right of withdrawal except for such restrictions as may

be usual and customary for such investments under ORS 733.650 (4) when no compensating balance is involved; and

(5) The insurer is receiving a reasonable fee, taking into consideration its return on other funds, for providing the compensating balance involved. [1975 c.232 §3]

733.580 Investment of required capitalization. (1) Funds of an insurer at least equal to its required capitalization shall be invested and kept invested as follows:

(a) In amply secured obligations of the United States, a state or a political subdivision of this state.

(b) In loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in this state where:

(A) The lien does not exceed 50 percent of the appraised value of the property and the loan is for a term of five years or less;

(B) The lien does not exceed 66-2/3 percent of the appraised value of the property provided there is an amortization plan mortgage, deed of trust or other instrument under the terms of which the instalment payments are sufficient to repay the loan within a period of not more than 25 years; or

(C) The investment is insured or guaranteed by the Federal Housing Administration, the United States Veterans' Administration, or under Title I of the Housing Act of 1949 (providing for slum clearance and redevelopment projects) enacted by Congress on July 15, 1949.

(c) In certificates of deposit or other investments described in ORS 733.650 (4), to the extent such investments are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(2) Investments made pursuant to this section shall be kept free of any lien or pledge. The term "lien or pledge" as used in this section shall not include a deposit of securities with a sovereign, nor assets held in trust for the benefit or protection of all or any class of policyholders of an insurer. [Formerly 738.238]

733.590 Investment in obligations of sovereign, political subdivision thereof or corporation. Funds of an insurer may be invested in amply secured obligations of a sovereign, political subdivision thereof or corporation. Expressly included, but not by way of limitation, are obligations of the following federal agencies and authorities: Federal Home Loan Banks, Federal Land Banks, Home Owners Loan Corporation, Public Housing Authorities (to the extent that such obligations are secured by a pledge of annual contributions to be paid by the United States or an agency thereof), and Federal Intermediate Credit Banks. [Formerly 738.245]

733.600 Investment in mortgage loans. (1) Funds of an insurer may be invested in:

(a) Loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in the manner and subject to the same terms and conditions set forth in ORS 733.580 (1)(b), except that the property may be located within the boundaries of any sovereign; for loans described in subparagraph (B) of such paragraph, the maximum permitted ratio of the loan to the appraised value shall be 80 rather than 66-2/3 percent, and the maximum term of the loan shall be 30 rather than 25 years.

(b) Loans secured by first liens upon a leasehold of improved, unencumbered real property located within the boundaries of any sovereign if:

(A) The leasehold has a period of not less than 20 years to run from the date of the loan, inclusive of the term which may be provided by an enforceable option of renewal, the loan does not exceed 70 percent of the fair market value of the leasehold together with any improvements located thereon which are subject to the lien, the terms of the loan provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient to completely amortize the loan within a period of four-fifths of the term of the leasehold, and the insurer is entitled to be subrogated to all rights of the lessee under the leasehold; or

(B) The investment is insured or guaranteed in the manner provided in ORS 733.580 (1)(b)(C).

(2) A loan upon the security of real property or a leasehold interest therein which is a participation in or a part of a series or issue shall not be made unless the insurer holds a senior participation or similar security interest in the mortgage or deed of trust giving it substantially the rights of a first mortgagee.

(3) Nothing in ORS 733.510 to 733.780 shall prohibit an insurer from renewing or extending a proper loan secured by a first lien upon real property or a leasehold interest therein made pursuant to this section or to ORS 733.580 for the original or a lesser amount even though such amount is a greater percentage of the current fair market value of the real property or leasehold than would otherwise be permitted under such sections. [Formerly 738.255]

733.610 Investment in real property. (1) Funds of an insurer may be invested in income-producing real property, leases thereon or vendors' interests therein under contracts of sale. Real property and leaseholds so acquired may be leased or sublet.

(2) Funds of an insurer may be invested in real property that the insurer intends to improve, as described in ORS 733.570 (2), for resale, without regard to whether the property is income-producing and without regard to ORS 733.780 (1)(a). Funds invested under this subsection shall not exceed 10 percent of the insurer's assets, and funds invested under this subsection or ORS 733.670 shall not exceed in the aggregate the excess of the insurer's assets over all liabilities and required capitalization.

(3) Real property may also be acquired by an insurer:

(a) For its own business use or to protect or enhance other real property acquired and held under ORS 733.510 to 733.780; or

(b) In satisfaction or liquidation of obligations previously owned, or in exchange or part payment for property previously owned, or as a dividend, or by gift, devise, merger or consolidation.

(4) Real property acquired under subsection (1) or (3) of this section shall be disposed of within five years after it ceases to be income-producing or to be used by the insurer for its business operation, whichever is later. Real property acquired under subsection (2) of this section shall be disposed of within five years after acquisition. However, any real property acquired in accordance with this section that qualifies as an investment under ORS 733.510 to 733.780 may be retained and held if approved as an investment in the manner prescribed by ORS 733.730 and 733.740. The commissioner may extend the time limit prescribed in this subsection if the interests of the insurer will suffer by a "forced sale" of the property. [Formerly 738.265; 1979 c.846 §1]

733.620 Investment in stocks of corporation. (1) Funds of an insurer may be invested in stocks (including trust certificates) of solvent corporations organized and carrying on a business under the laws of a sovereign as follows:

(a) Preferred or guaranteed stocks if the corporation is not in default or arrears as to any preferred or guaranteed dividend and has continuously and regularly paid such dividends during the preceding three years or has paid cash dividends for five years on common stock.

(b) Common stocks if:

(A) The obligations and preferred stock, if any, of such corporation are eligible for investment under ORS 733.510 to 733.780;

(B) Cash dividends on such common stock have been paid during each of five years preceding the date of acquisition; and

(C) The stock is registered on a national securities exchange regulated under the Securities Exchange Act, or if of a type not commonly so registered is regularly traded on a broad national or regional basis.

(2) An insurer shall not invest so as to own or control more than five percent of the voting power outstanding of a corporation, nor shall it invest in the obligations or stocks of a corporation if the insurer, directors, trustees and officers own or control, or as a result thereof shall own and control, in the aggregate more than 50 percent of the voting power. [Formerly 738.275]

733.630 Investment in stocks or obligations of subsidiaries. (1) Except as provided in subsections (2) and (3) of this section, funds of an insurer may be invested in the stocks or obligations of one or more corporations without regard to the provisions and limitations of ORS 733.590, 733.620, 733.770 and 733.780 (1)(a) if such a corporation is engaged, or will be engaged, in the kind of business or activity which is related to the insurance business as described in ORS 733.635, provided 80 percent or more of the shares of such corporation having voting powers are owned by the insurer either by itself or with prior approval of the commissioner in cooperation with one or more other persons.

(2) Except as provided in subsection (4) of this section, the amount of funds so invested shall not exceed, in the aggregate, 50 percent of the amount of the insurer's combined capital and surplus, unless such investment is made pursuant to a plan of acquisition which has been approved by the commissioner.

(3) The limitations of ORS 733.770 shall apply to funds invested in a subsidiary described in ORS 733.635 (3) to (12).

(4) Funds invested in one or more subsidiary corporations described in ORS 733.635 (9) shall not be subject to the limitation prescribed in subsection (2) of this section and shall not be considered in determining the aggregate limitation presented in subsection (2) of this section. [1967 c.359 §241; 1969 c.285 §1]

733.635 Approved activities of corporations in which investments authorized. Investments authorized by ORS 733.630 may be made in corporations engaged, or which will be engaged, in one or more of the following insurance or ancillary businesses:

(1) Any kind of insurance business authorized by the jurisdiction in which it is incorporated.

(2) Any kind of business primarily related to the insurance business carried on by the parent.

(3) Acting as an insurance agent for its parent or for any of its parent's insurer subsidiaries or intermediate insurer subsidiaries.

(4) Investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

(5) Management of any investment company subject to or registered pursuant to the Federal Investment Company Act of 1940, as amended, including related sales and services.

(6) Acting as a broker dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended.

(7) Rendering investment advice to governments, government agencies, corporations or other organizations or groups.

(8) Rendering other services related to the operations of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services.

(9) Ownership and management of assets or property which the parent could itself own and manage.

(10) Acting as administrative agent for a government instrumentality which is performing an insurance function.

(11) Financing of insurance premiums.

(12) Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in subsections (1) to (11) of this section. [1969 c 285 §3]

733.640 Lending funds; limitations on loans. (1) Funds of an insurer may be invested in loans secured by pledges of obligations and stocks eligible for investment under ORS 733.510 to 733.780. As of the date the loan is made, it shall not exceed in amount 80 percent of the market value of the collateral pledged. No such loan shall be made for the purpose of providing funds to purchase or carry stocks registered on a national securities exchange.

(2) Funds of an insurer may be invested in loans secured by personal property or fixtures if such loan is:

(a) In connection with a loan on the security of real property or a leasehold as provided in ORS 733.580 or 733.600;

(b) In an amount not exceeding 20 percent of the amount loaned on the real property or leasehold;

(c) For a term of not more than five years;

(d) Secured by a security interest which constitutes a first lien, except for taxes not then delinquent, on tangible, permanent personal property of the borrower kept and used on the premises, other than stocks of goods held for sale or transfer in the ordinary course of business or items which by normal use will be consumed or depleted during the period of the loan; and

(e) In an amount, the ratio of which to the value of the security does not exceed the ratio of the companion loan to the value of the real property or leasehold.

(3) Funds of an insurer may be loaned to its own life insurance policyholder upon the security of such life insurance policy. The loan shall not exceed the cash value of the policy. [Formerly 738.285]

733.650 Investment of funds in certain obligations and other specified items. Funds of an insurer may be invested in the following:

(1) Obligations secured by a mortgage or deed of trust payment of which is guaranteed by a policy of mortgage insurance.

(2) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development.

(3) Bank and bankers' acceptances and other bills of exchange of the kind and nature made eligible by law for purchase in the open market by federal reserve banks.

(4) Deposits, certificates of deposits, accounts or savings or certificate shares or accounts of or in banks, trust companies, savings and loan associations or building and loan associations insured with the Federal Deposit Insurance Corporation or with the Federal Savings and Loan Insurance Corporation or qualified to do business under the laws of this state.

(5) Obligations issued by trustees or receivers of a corporation created or existing under the laws of a sovereign which, or the assets of which, are being administered under the direction of a court having jurisdiction if the obligation is adequately secured as to principal and interest.

(6) Transportation equipment used wholly or in part within a sovereign, or adequately secured

trust certificates of participation or similar obligations or contracts evidencing an interest in such transportation equipment, where the investor is entitled to receive a determined or determinable portion of rental, purchase or other obligatory payments for use or purchase of the equipment.

(7) Purchase contracts or lease-purchase agreements executed under the Federal Public Buildings Purchase Contract Act of 1954, or the Post Office Department Property Act of 1954.

(8) Stock of the Federal Home Loan Bank to the extent of the minimum required by the Federal Home Loan Bank Act. An insurer acquiring such stock may exercise all rights and powers given to members under such Act, including but not by way of limitation the right to obtain advances or borrow money from such bank and to pledge collateral as security therefor.

(9) Obligations issued, assumed or guaranteed by the Inter-American Development Bank.

(10) Loans guaranteed by the State Scholarship Commission pursuant to ORS 348.505 to 348.620.

(11) Obligations issued, assumed or guaranteed by the Asian Development Bank.

(12) Obligations issued, assumed or guaranteed by the African Development Bank. [Formerly 738.295; 1969 c.336 §9; 1969 c.692 §8; 1973 c 514 §1; 1985 c.456 §2]

733.652 Investment of funds of separate accounts. Except as may be prescribed by the commissioner under ORS 733.220 (3) for reserves for guaranteed benefits and funds:

(1) Amounts allocated to a separate account and accumulations thereon may be invested and reinvested without regard to the requirements and limitations prescribed by ORS 733.510 to 733.780, except as expressly provided for separate accounts under such sections; and

(2) The investments in separate accounts shall not be considered in applying the investment limitations applicable to the general investments of the insurer. [1973 c.435 §9]

733.654 Limitation on amount of separate account investments; exceptions. An insurer shall not invest the funds of a separate account so as to have more than 10 percent of the market value of the assets of the account invested in or secured by the stocks, obligations or property of any one person or political subdivision, or invested in a single parcel of real property or any other single investment. This section does not apply to:

(1) Funds equaling 25 percent of the market value of the total assets in the separate account;

(2) Investments in, or loans upon, the security of the general obligations of a sovereign; or

(3) Investments in certificates of deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. [1973 c.435 §10; 1981 c.472 §27]

733.656 Limitation on securities owned or controlled by separate account investments. An insurer shall not invest the funds of a separate account so as to own or control, under the insurer's general and separate accounts in the aggregate, more than 10 percent of the voting power outstanding of any issuer of securities. Securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts, shall not be considered in applying this section. [1973 c.435 §11]

733.658 Applicability of separate account investment limitations. The limitations provided in ORS 733.654 and 733.656 do not apply to the investment of separate account funds in the securities of an investment company registered under the Federal Investment Company Act of 1940 if the investments of the investment company comply in substance with ORS 733.654 and 733.656. [1973 c.435 §12]

733.660 Investment of funds in data processing system. Funds of an insurer may be invested in mechanical and electronic computers and equipment which constitute a data processing system used by the insurer, if the cost of such system is at least $50,000 and is to be amortized in full in not more than 10 years. The amount of such investment which may be allowed as an asset in any determination of the financial condition of the insurer shall not exceed the excess of the insurer's assets over all liabilities and required capitalization. [1967 c.359 §244]

733.670 Investment of funds under "prudent investor" standard. (1) Funds of an insurer may be invested in a manner not expressly prohibited under ORS 732.325 and 733.780, provided such investments are made in the exercise of the judgment and care under the circumstances then prevailing which investors of prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(2) Funds invested under this section shall not exceed seven and one-half percent of the insurer's assets, and funds invested under this section or ORS 733.610 (2) shall not exceed in the aggregate the excess of the insurer's assets over all liabilities and required capitalization.

(3) If the commissioner has reason to believe that loans or investments made pursuant to this section are not adequately secured or are not yielding an income the commissioner may direct the insurer to report under oath the amount of such loans or investments, the security therefor and its market value. [Formerly 738.305; 1979 c.846 §2]

733.680 Acquisition and retention of personal property generally; purchases or loans for protection of investment property. (1) An insurer may acquire and retain personal property received as a dividend, gift or devise, or pursuant to a lawful plan of merger, consolidation or reorganization or bona fide agreement of bulk reinsurance, or in satisfaction or liquidation of an obligation, or in exchange or part payment for real or personal property previously owned or to protect or enhance such property.

(2) An insurer may make purchases or loan sums necessary to protect, preserve or enhance investment property, real or personal, which it is otherwise authorized to acquire or hold.

(3) The commissioner shall allow as assets in any determination of the financial condition of the insurer only such property or investments acquired or retained under this section as are consistent with the customary operations of an insurer. [Formerly 738.315]

733.685 Investment of funds by home protection insurer. Funds of a home protection insurer may be invested in tangible personal property held by the insurer for the purpose of performing or providing repairs or replacements under its home protection policies. Funds so invested shall not exceed 25 percent of the assets of the insurer that are allowable in determining its financial condition under the Insurance Code, unless otherwise allowed under rules issued by the commissioner. [1981 c.247 §13]

733.690 Investment of funds in title plant. Funds of a title insurer may be invested in its title plant. [1967 c.359 §247]

733.700 Investment of funds in health care service facilities. Funds of a health care service contractor may be invested in all real and personal property used exclusively by the contractor to provide authorized health care services. [1967 c.359 §248]

733.710 Investments authorized by prior law; date of eligibility of investment. (1) An investment which was legal and proper immediately before June 8, 1967, shall be considered a proper investment and shall be subject to extension or renewal.

(2) Eligibility of an investment shall be determined as of the date of its acquisition. [Formerly 738.325]

733.720 Investments subject to additional limitations and requirements. Except as may be expressly provided to the contrary in ORS 733.510 to 733.780, all investments shall be subject to the qualifications, restrictions and limitations set forth in ORS 733.510 to 733.780. [Formerly 738.333]

733.730 Approval by board of directors of investments and deposits. (1) Investments and sales or exchanges thereof, except for policy loans of an insurer issuing life insurance policies, shall be approved by the board of directors or a committee thereof charged with the duty of investing the funds of the insurer.

(2) Deposits shall be made in banks or banking institutions approved by the board of directors. [Formerly 738.335]

733.740 Record of investments required. As to each investment, an insurer shall make a written record in permanent form, signed by a person authorized by the board of directors or by a committee thereof charged with the duty of investing the funds. The record shall show the authorization and approval of the investment and in addition shall contain:

(1) In the case of mortgage loans: The name of the borrower; the location and legal description of the property; a physical description and the appraised value of the security as determined by a competent and qualified appraiser; the amount of the loan, rate of interest and terms of repayment.

(2) In the case of obligations: The name of the obligor; description of the security and record of earnings; the amount invested and the rate of interest or dividend; the maturity and yield based upon the purchase price.

(3) In the case of corporate stocks: The name of the issuing corporation; the record of earnings and of dividends paid for the preceding three years for preferred stock and for the preceding five years for common stock; a summary of the financial statement of the corporation as of the end of the preceding fiscal year; the exchange, if any, on which the stock is listed; the amount invested and the number of shares acquired and held.

(4) In the case of real estate, leaseholds or vendors' interests under contracts of sale therein: The location and legal description of the property; a physical description and the appraised value of the property and interest therein; the purchase price and terms; the amount of any lien known to be against the property; if of a leasehold, the terms of the outstanding lease; if a vendor's interest under a contract of sale, the terms and status of payments under the contract.

(5) In the case of all investments: The amount of any expenses and commissions incurred on account of the investment or loan and by whom and to whom payable if not covered by contracts with mortgage loan representatives or correspondents which are part of the insurer's records; the name of any director, trustee or officer of the insurer, having a direct, indirect, or contingent interest in the loan, security or property, or who would derive, directly or indirectly, any benefit therefrom, and the nature of such interest or benefit. [Formerly 738.345]

733.750 Disposal of investments on order of Insurance Commissioner. After a hearing, the commissioner may by written order require the disposal of an investment which the commissioner finds to be made or retained in violation of the Insurance Code, or of an investment which the commissioner, for good cause, determines to be prejudicial to, and to impair the security of, the stockholders or policyholders of the insurer. [Formerly 738.355]

733.760 Insurance required on buildings on property which is security for loan. On loans secured by liens upon real property or leasehold interests therein, the buildings and other improvements located on the premises shall be kept insured against loss or damage from fire in an amount not less than the unpaid balance of the obligation or the insurable value of the property, whichever is the lesser. The fire insurance policy or policies shall be payable to the insurer, or a trustee for its benefit, and continued in force until the loan is repaid or satisfied. Such policy or policies shall be held by the insurer or the trustee, unless the commissioner has determined that a different method of protecting the insurers against loss is satisfactory and has given prior approval of such method to the insurer. [1967 c 359 §254; 1969 c 336 §10]

733.770 Limitations on investments in property of any one person or single parcel of real estate. (1) An insurer shall not have any combination of investments in or secured by the stocks, obligations, and property of one person, corporation or political subdivision in excess of 10 percent of the insurer's assets, nor shall it invest more than 10 percent of its assets in a single parcel of real property or in any other single investment. This subsection does not apply to:

(a) Investments in, or loans upon, the security of the general obligations of a sovereign;

(b) Policy loans by insurers issuing life insurance policies;

(c) Investments by a title insurer in its title plant, or in real property not in excess of 50 percent of the insurer's combined capital and surplus; or

(d) Investments by a health care service contractor in all real or personal property used exclusively by such contractor to provide authorized health care services or in real property used primarily for its home office.

(2) Notwithstanding subsection (1) of this section and subject to approval by the commissioner in writing, a domestic insurer organized before 1950 may invest an amount not exceeding 15 percent of its assets in real property used primarily for its home office. [Formerly 738.375; 1983 c.732 §1]

733.780 Prohibited investments. (1) An insurer shall not make investments:

(a) Which at the time of purchase or acquisition are not interest-bearing or dividend or income-paying, or are in default in any respect; or

(b) From which the insurer is not entitled to receive for its exclusive account and benefit the interest, dividends or income.

(2) Paragraph (a) of subsection (1) of this section shall not apply to property acquired under ORS 733.610, 733.670 or 733.680 if the property is acquired with the intent and expectation that it will be income-producing.

(3) An insurer shall not invest its funds in any investment or security found by the commissioner to be designed to evade any prohibition of the Insurance Code. [Formerly 738.385]