

Effective 5/10/2016

31A-17-503 Actuarial opinion of reserves.

- (1)
- (a) For an actuarial opinion before the operative date of the valuation manual, a life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items considered to be necessary to its scope.
 - (b) The following apply to the actuarial analysis of reserves and assets supporting reserves:
 - (i) A life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by Subsection (1)(a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under the expenses associated with the policies and contracts.
 - (ii) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to render the opinion required by this section.
 - (c) An opinion required by Subsection (1)(b) shall be governed by the following provisions:
 - (i) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.
 - (ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rule or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.
 - (d) An opinion subject to this Subsection (1) shall be governed by the following provisions:
 - (i) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1993.
 - (ii) The opinion shall apply to the business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.
 - (iii) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by rule prescribe.
 - (iv) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

- (v) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth by department rule.
- (vi) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.
- (vii) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in rules by the commissioner consistent with Section 31A-2-308 and Title 63G, Chapter 4, Administrative Procedures Act.
- (viii)
 - (A) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, are considered protected records under Section 63G-2-305 and may not be made public and are not subject to subpoena under Subsection 63G-2-202(7), other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or rules made under this section.
 - (B) However, the memorandum or other material may otherwise be released by the commissioner with the written consent of the company, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.
 - (C) Once any portion of the confidential memorandum is cited in its marketing or is cited before any governmental agency other than the department or is released to the news media, all portions of the memorandum are no longer confidential.
- (2) The following apply to an actuarial opinion of reserves after the operative date of the valuation manual:
 - (a) A company with an outstanding life insurance contract, accident and health insurance contract, or deposit-type contract in this state and subject to rule made by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items considered to be necessary to its scope.
 - (b) A company with an outstanding life insurance contract, accident and health insurance contract, or deposit-type contract in this state and subject to rule made by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by Subsection (2)(a) an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.
 - (c) An opinion required by Subsection (2)(b) shall be governed by the following provisions:

- (i) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.
- (ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.
- (d) An opinion subject to this Subsection (2) shall be governed by the following provisions:
 - (i) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.
 - (ii) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.
 - (iii) The opinion shall apply to the policies and contracts subject to Subsection (2)(b), plus other actuarial liabilities as may be specified in the valuation manual.
 - (iv) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.
 - (v) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.
 - (vi) Except in cases of fraud or willful misconduct, the appointed actuary may not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.
 - (vii) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules by the commissioner consistent with Section 31A-2-308 and Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 163, 2016 General Session