

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box
2008 AUG 29 PM 3: 37
OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code §§33-2-10 and 33-7-9(n)

AMENDMENT TO AN EXISTING RULE: YES NO

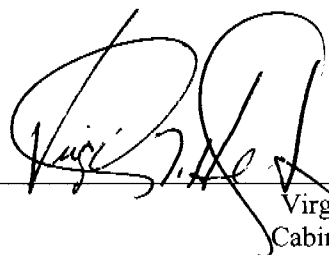
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 41

TITLE OF RULE BEING AMENDED: Actuarial Opinion and Memorandum Rule

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Virgil T. Helton
Cabinet Secretary
West Virginia Department of Revenue

Offices of the Insurance Commissioner
Legislative Rule
Title 114, Series 41

ACTUARIAL OPINION AND MEMORANDUM RULE

TITLE 114, SERIES 41

BRIEF SUMMARY OF RULE

The National Association of Insurance Commissioners (NAIC) amended their actuarial opinions model in 2001 and this rule mirrors those amendments. The amendments to this rule are the first in twelve years. It is necessary to have the amendment to the rule in place by 2010 in order to retain our agency's NAIC accreditation to perform financial examinations that will be accepted in other accredited states.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 29, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

LEGISLATIVE RULE TITLE: Actuarial Opinion and Memorandum Rule,
Title 114, Series 41

1. Authorizing statute(s) citation:

WV Code §§33-2-10 & 33-7-9(n)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 18, 2008 - Comment Period.

b. What other notice, including advertising, did you give of the hearing?

N/A

c. Date of Public Hearing(s) or Public Comment Period ended:

Comment period ended July 21, 2008.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 29, 2008 (following public comment period)

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Timothy R. Murphy, Associate Counsel
West Virginia Insurance Commission
Legal Division
P.O. Box 50540
Charleston, WV 25305-0540
Phone: (304) 558-6279, Ext. 1210
Fax: (304) 558-1362
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

N/A

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

N/A

ATTACHMENT TO QUESTION 2 (d):

- American Council of Life Insurers (ACLI) commented that the proposed changes to §114-40-5, "Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis," which corresponds to §6 of the NAIC model on which the rule is based, does not track the language in the NAIC model; specifically, the table found in section 6(B)(2) of the NAIC model and all remaining sections from 6(B)(3) through 6(F)(2) are not included in the rule. ACLI also notes that the title of this section be amended so that it tracks the title in the NAIC model, which is "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis." The Commissioner agrees to make the suggested changes in order to stay in compliance with the model. The Commissioner adds the following:

TABLE I

<u>Asset Adequacy Tested Amounts Reserves and Liabilities</u>					
<u>Statement Item</u>	<u>Formula Reserves</u> <u>(1)</u>	<u>Additional Actuarial Reserves(a)</u> <u>(2)</u>	<u>Analysis Method(b)</u>	<u>Other Amount</u> <u>(3)</u>	<u>Total Amount</u> <u>(1)+(2)+(3)</u> <u>(4)</u>
<u>Exhibit 8</u>					
<i>A Life Insurance</i>					
<i>B Annuities</i>					
<i>C Supplementary Contracts Involving Life Contingencies</i>					
<i>D Accidental Death Benefits</i>					
<i>E Disability - Active</i>					
<i>F Disability- Disabled</i>					
<i>G Miscellaneous</i>					
<i>Total (Exhibit 8 Item 1, Page 3)</i>					
<u>Exhibit 9</u>					
<i>A Active Life Reserve</i>					
<i>B Claim Reserve</i>					
<i>Total (Exhibit 9 Item 2, Page 3)</i>					
<u>Exhibit 10</u>					
<i>1 Premiums and Other Deposit</i>					

<u>Funds</u>					
<u>1.1 Policyholder Premium (Page 3, Line 10.1)</u>					
<u>1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)</u>					
<u>1.3 Other Contract Deposit Funds (Page 3, Line 10.3)</u>					
<u>2. Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 5)</u>					
<u>3. Dividend and Coupon Accumulations (Page 3, Line 5)</u>					
<u>Total Exhibit 10</u>					
<u>Exhibit 11</u>					
<u>Part 1. Life (Page 3, Line 4.1)</u>					
<u>2. Health (Page 3, Line 4.2)</u>					
<u>Total Exhibit 11, Part 1</u>					
<u>Separate Accounts (Page 3, Line 27)</u>					
<u>TOTAL RESERVES</u>					

<u>IMR (Page Line)</u>	
<u>AVR (Page Line)</u>	(c)

c. 1. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"] as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

2. A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by paragraph 5, subdivision f, subsection 5.2 of this rule.

d. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

e 1. If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as the following:

"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

2. The section shall be accompanied by a statement by each person relied upon in the form prescribed by subsection 5.5 of this rule.

f. The opinion paragraph should include a statement such as the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

2. Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

3. Meet the requirements of the Insurance Law and regulation of the state of [state of domicile], and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

5. Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to

be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.)

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.) Note: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date

5.3. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this rule.

5.4 Adverse Opinions. If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

5.5 Reliance on Data Furnished by Other Persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy and completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

5.6. Alternate Option.

a. The Standard Valuation Law gives the Commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the statement set forth in paragraph 3 of the opinion paragraph in subdivision f of subsection 5.2 above, the Commissioner may make one or more of the following additional approaches available to the opining actuary:

1. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

2. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met." If the Commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the Commissioner has not denied the request by that date.

3. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state."

A. If the Commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in subparagraph (ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

B. If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

<u>(1)</u> <u>Product Type</u>	<u>(2)</u> <u>Death Benefit or Account Value</u>	<u>(3)</u> <u>Reserves Held</u>	<u>(4)</u> <u>Codification Reserves</u>	<u>(5)</u> <u>Codification Standard</u>

C. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

D. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

E. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

b. Notwithstanding the above, the Commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Commissioner after consultation with the company, the Commissioner may contract an independent actuary at the company's expense to prepare and file the opinion.

The Commissioner also changes the title of this section to read as follows:

114-80-5. Statement of Actuarial of Opinion ~~Not Including~~ Based On An Asset Adequacy Analysis.

- The second comment received pertains to 114-41-7. ACLI states that this section of the proposed rule, which corresponds to §9 in the existing rule, has been eliminated from the NAIC model. ACLI asserts §§7.1, 7.2 and 7.4 were deleted in the NAIC model and that the intent of the NAIC was to leave to the opining actuary the decision about which scenarios to test. ACLI states that this change in approach was very thoroughly discussed and debated by the NAIC's Life/Health Actuarial Task Force and suggest that for uniformity purposes to delete subsection §§7.1, 7.2 and 7.4 in their entirety and to move §§7.3 and 7.5 into 114-41-6 as subsections 6.5 and 6.6 respectively. The Commissioner agrees with the suggested changes in order to bring the rule into uniformity with the NAIC model. The Commissioner changes §§6 and 7 as follows:

6.5. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

a. The appointed actuary must use an appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

b. The amount of the assets used for the AVR must be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

6.6. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

~~§114-41-9-7. Additional Considerations for Analysis.~~

~~9-7.1. Aggregation. For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with section 7-5 of this rule, reserves and assets may be aggregated by either of the methods set forth in paragraphs subdivisions a or b of this subsection:~~

~~a. The appointed actuary may aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated; or~~

~~b. The appointed actuary may aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:~~

~~A 1. Are developed using consistent economic scenarios; or~~

~~B 2. Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves; or~~

~~C 3. In the event of any aggregation, the actuary must disclose in his or her opinion that the reserves were aggregated on the basis of the method set forth in paragraph subdivision a or b of this subsection, whichever is applicable, and describe the aggregation in the supporting memorandum.~~

~~9 7.2. Selection of Assets for Analysis. The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion of an asset supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection 9 7.3 below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.~~

~~9 7.3. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.~~

~~a. The appointed actuary must use an appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.~~

~~b. The amount of the assets used for the AVR must be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.~~

~~9 7.4. Required Interest Scenarios. For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expect to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:~~

- ~~a. Level with no deviation;~~
- ~~b. Uniformly increasing over ten (10) years at a half percent per year and then level;~~
- ~~c. Uniformly increasing at one percent per year over five (5) years and then uniformly decreasing at one percent per year to the original level at the end of the ten (10) years and then level;~~
- ~~d. An immediate increase of three percent (3%) and then level;~~
- ~~e. Uniformly decreasing over ten (10) years at a half percent per year and then level;~~
- ~~f. Uniformly decreasing at one percent per year over five (5) years and then uniformly increasing at one percent per year to the original level at the end of ten (10) years and then level; and~~
- ~~g. An immediate decrease of three percent (3%) and then level.~~

~~For these and other scenarios which may be used, projected interest for a five (5) year Treasury Note need not be reduced beyond the point where the five (5) year Treasury Note yield would be at fifty percent (50%) of its initial level.~~

~~The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.~~

~~9 7.5. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.~~



Leah J. Walters
Counsel, State Relations

July 21, 2008

Mr. Timothy R. Murphy
Associate Counsel
Offices of the Insurance Commissioner
P.O. Box 50540
1124 Smith Street
Charleston, WV 25305

RE: Proposed Series 41, Actuarial Opinion and Memorandum Rule

Dear Mr. Murphy:

This letter is submitted on behalf of the American Council of Life Insurers (ACLI), a national trade association of legal reserve life insurance companies whose 353 member companies account for 93 percent of total assets, 93 percent of the life insurance premiums, and 94 percent of annuity considerations in the United States. Two hundred and eighty four ACLI member companies are licensed to do business in West Virginia and account for 93 percent of life insurance premiums and 97 percent of annuity considerations. ACLI appreciates the opportunity to comment on the above-captioned proposed Rule regarding amendments to Actuarial Opinion and Memorandum Rule.

ACLI agrees with most of the amendments in the Rule as they track the NAIC Model Actuarial Opinion and Memorandum Regulation (NAIC Model) and we applaud the Insurance Department for making these changes. ACLI has, however, noted a few differences between this proposed rule and the NAIC Model that we would like to comment on. Our comments are listed below by section number.

§114-41-5: This section of the Rule corresponds with Section 6 of the NAIC Model. While the new language does track the language in the NAIC Model, it appears that there is missing language from the NAIC Model. In particular, what's missing is the table in Section 6(B)(2) of the NAIC Model, and then all of the remaining sections from 6(B)(3) through 6(F)(2). ACLI would recommend that this missing language be added back into the proposed Rule.

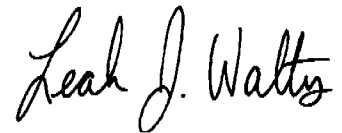
ACLI would also recommend that the title of this section be amended so that it tracks the title in the NAIC Model, which is: "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis."

§114-41-7: This section of the Rule is currently §114-41-9 of the existing Series 41. This section has been eliminated from the NAIC Model. Paragraphs 7.1, 7.2 and 7.4 were deleted in the NAIC Model and paragraphs 7.3 and 7.5 of this Rule were incorporated in the NAIC Model as Section 7 (E) and (F) respectively. The intent of the NAIC, reflected in the new Model, is to leave up to the opining actuary the

decision about which scenarios to test. This change in approach was very thoroughly discussed and debated by the NAIC's Life/Health Actuarial Task Force. Thus, for uniformity purposes ACLI would recommend the deletion in it's entirety of paragraphs 7.1, 7.2 and 7.4, and the movement of paragraphs 7.3 and 7.5 into Section 114-41-6 as paragraphs 6.5 and 6.6, respectively.

Again, thank you for the opportunity to comment on this proposed Rule. If you have any questions regarding these comments, please feel free to call me directly at the number listed below.

Sincerely,

A handwritten signature in cursive script that reads "Leah J. Walters". The signature is written in black ink and is positioned above the printed name.

Leah J. Walters
Legislative Director - Mid-Atlantic States

Offices of the Insurance Commissioner
Legislative Rule
Title 114, Series 41

Actuarial Opinion and Memorandum Rule

TITLE 114, SERIES 41

STATEMENT OF CIRCUMSTANCES

These amendments to the Offices of the Insurance Commissioner's actuarial opinion rule are the first in twelve years. The amendments mirror the National Association of Insurance Commissioners' (NAIC) 2001 amendments and will be necessary to have in place by 2010 in order to retain our agency's NAIC accreditation to perform financial examinations that will be accepted in other accredited states.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Actuarial Opinion and Memorandum Rule (Title 114, Series 41)

Type of Rule: X Legislative Interpretive Procedural

Agency: Insurance Commission

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Equipment	None	None	None
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Actuarial Opinion and Memorandum Rule (Title 114, Series 41)

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

--

Date: _____

Signature of Agency Head or Authorized Representative

Timothy Murphy, Associate Counsel

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

FILED

2008 AUG 29 PM 3: 37

SERIES 41
ACTUARIAL OPINION AND MEMORANDUM RULE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Section

- 114-41-1. General.
- 114-41-2. Purpose.
- 114-41-3. Definitions.
- 114-41-4. General Requirements.
- 114-41-5. ~~Required Opinions~~ Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis.
- 114-41-6. ~~Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis~~ Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.
- 114-41-7. ~~Statement of Actuarial Opinion Based On an Asset Adequacy Analysis~~ Additional Considerations for Analysis.
- ~~114-47-8. Description of Actuarial Memorandum Including an Asset Adequacy Analysis.~~
- ~~114-41-9. Additional Considerations for Analysis.~~

**TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 41
ACTUARIAL OPINION AND MEMORANDUM RULE**

§114-41-1. General.

1.1. Scope. -- This legislative rule applies to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance businesses in this State. This rule is based on the "Actuarial Opinion and Memorandum Regulation (Model 822)" adopted by the National Association of Insurance Commissioners in 1991 and amended in 2001.

a. This rule shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

~~a b.~~ This rule ~~shall be~~ is applicable to all annual statements filed with the commissioner. ~~after the effective date of this rule. Except with respect to companies which are exempted pursuant to section 5 of this rule, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with section 7 of this rule, and a memorandum in support thereof in accordance with section 8 of this rule, is required each year. Any exempted company must file a statement of actuarial opinion pursuant to section 6 of this rule.~~

~~b c.~~ Notwithstanding the foregoing, the commissioner may require any company otherwise exempt pursuant to this rule to submit a statement of actuarial opinion and to prepare a memorandum in support of the opinion in accordance with ~~sections 7 and 8~~ section 6 of this rule if, in the opinion of the commissioner, an asset adequacy analysis is necessary with respect to the company.

1.2. Authority. -- W.Va. Code §§33-2-10 and 33-7-9(n).

1.3. Filing Date. -- ~~April 2, 1996.~~

1.4. Effective Date. -- ~~April 2, 1996.~~

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§114-41-2. Purpose.

2.1. The purpose of this rule is to prescribe:

a. ~~Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with the Standard Valuation Law, W.Va. Code 33-7-9(c), and for memoranda in support of the opinion~~ Requirements for statements of actuarial opinion that are to be submitted in accordance with the Standard Valuation Law, W.Va. Code §33-7-9(c), and for memoranda in support thereof;

b. ~~Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from the Standard Valuation Law, W. Va. Code 33-7-9(c)(2); and~~

c b. Rules applicable to the appointment of an appointed actuary; and

c. Guidance as to the meaning of “adequacy of reserves.”

§114-41-3. Definitions.

3.1. “Actuarial Opinion” means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 6 of this rule and with applicable Actuarial Standards of Practice.

a. ~~With Respect to section 7, 8 or 9 of this rule, the opinion of the appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with section 7 of this rule and with presently accepted actuarial standards; or~~

b. ~~With respect to section 6 of this rule, the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with section 6 of this rule and with those presently accepted actuarial stands which specifically relate to this opinion.~~

3.2. “Actuarial Standards Board” ~~is~~ means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

3.3. “Annual Statement” means that statement required by W. Va. Code §33-4-14 to be filed annually by the company with the office of the commissioner.

3.4. “Appointed Actuary” means any individual who is appointed or retained in

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accordance with the requirements set forth in subsection 4.3 of this rule to provide the actuarial opinion and supporting memorandum as required by the Standard Valuation Law, W. Va. Code §33-7-9(c).

3.5. "Asset Adequacy Analysis" means an analysis that meets the standards and other requirements referred to in subsection 4.4 of this rule. ~~It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.~~

3.6. "Commissioner" means the Insurance Commissioner of West Virginia.

3.7. "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule.

~~3.8. "Non-Investment Grade Bonds" are those designated as classes, 3, 4, 5 or 6 by the National Association of Insurance Commissioners (NAIC) Securities Valuation Office.~~

3.9 ~~8.~~ "Qualified Actuary" means any individual who meets the requirements set forth in ~~section~~ subsection 4.2 of this rule.

§114-41-4. General Requirements.

4.1. Submission of Statement of Actuarial Opinion.

a. ~~The annual statement for each year beginning with the year in which this rule becomes effective shall include on or attached to page 1, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with section 7 6 of this rule. provided, however, that any company exempted pursuant to section 5 of this rule from submitting a statement of actuarial opinion in accordance with section 7 of this rule shall include on or attach to page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with section 6 of this rule. Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.~~

b. ~~If in the previous year a company provided a statement of actuarial opinion in accordance with section 6 of this rule, and in the current year fails the exemption criteria of paragraphs a, b, and c of subsection 5.3, section 5 of this rule to again provide an actuarial opinion in accordance with section 6 of this rule, the statement of actuarial opinion in accordance with section 7 is not required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with section 6~~

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~~of this rule with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with section 7 of this rule.~~

~~c. In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by the company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.~~

~~d. Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.~~

4.2. A “qualified actuary” is an individual who:

- a. Is a member in good standing of the American Academy of Actuaries;
- b. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;
- c. Is familiar with the valuation requirements applicable to life and health insurance companies;
- d. Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
 - ~~A~~ 1. Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as a qualified actuary;
 - ~~B~~ 2. Been found guilty of fraudulent or dishonest practices;
 - ~~C~~ 3. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;
 - ~~D~~ 4. Submitted to the commissioner during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or
 - ~~E~~ 5. Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of

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failure to adhere to generally acceptable actuarial standards; and

e. Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under subdivision (d) of this subsection.

4.3. "Appointed Actuary" is a qualified actuary who is appointed or retained, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary, to prepare the statement of actuarial opinion required by this rule. The Company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements set forth in subsection 4.2 of this rule. Once the company furnishes notice, no further notice is required with respect to this appointed actuary, provided that the company gives the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set for in subsection 4.2 of this rule. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall state that fact and give the reasons for replacement.

4.4. Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this rule:

a. Shall conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this rule, the standards are to form the basis of the statement of actuarial opinion in accordance with ~~section 7~~ of this rule; and

b. Shall be based on methods of analysis as are considered appropriate for such purposes by the Actuarial Standards Board.

4.5. Liabilities to be Covered.

a. Under authority of the Standard Valuation Law, W.Va. Code §33-7-9(c), the statement of actuarial opinion applies to all in force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits 8, 9, and 10, and claim liabilities in Exhibit 11, Part I and equivalent items in the separate account statement or statements.

b. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in the Standard Valuation Law, W.Va. Code §33-7-9(g),

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(h), (k), (l) and (m), the company shall establish the additional reserve.

~~c. For years ending prior to December 31, 1997, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than:~~

~~A. For the year ending prior to December 31, 1995, the additional reserve divided by three; and~~

~~B. For the year ending prior to December 31, 1996, two times the additional reserve divided by three.~~

~~d. c.~~ Additional reserves established under paragraphs subdivision b or e of this subsection and determined not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of the reserves would not be considered an adoption of a lower standard of valuation.

~~§114-41-5. Required Opinions:~~

~~5.1. General. In accordance with the Standard Valuation Law, W. Va. Code §33-7-9(c), every company doing business in this State shall annually submit the opinion of an appointed actuary as provided for by this rule. The type of opinion submitted is determined by the provisions set forth in this section and shall be in accordance with the applicable provisions in this rule.~~

~~5.2. Company Categories. For purposes of this rule, companies are classified as set forth in this subsection based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:~~

~~a. Category A consists of those companies whose admitted assets do not exceed \$20 million;~~

~~b. Category B consists of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;~~

~~c. Category C consists of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million; and~~

~~d. Category D consists of those companies whose admitted assets exceed \$500 million.~~

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~~5.3. Exemption Eligibility Tests:~~

~~a. Any Category A company that, for any year beginning with the year in which this rule becomes effective, meets all of the criteria in this subsection is eligible for exemption from submission of a statement of actuarial opinion in accordance with section 7 of this rule for the year in which these criteria are met. The ratios in subparagraphs A, B and C of this subsection shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:~~

~~A. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.~~

~~B. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.~~

~~C. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.~~

~~D. The examiner team for the National Association of Insurance Commissioners (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office of the resolution.~~

~~b. Any Category B company that, for any year beginning with the year in which this rule becomes effective, meets all of the criteria in subparagraphs A, B, C, and D of this paragraph is eligible for exemption from submission of a statement of actuarial opinion in accordance with section 7 of this rule for the year in which the criteria are met. The ratios in subparagraphs A, B, and C shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~

~~A. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.~~

~~B. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40.~~

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~~C. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.~~

~~D. The examiner team for the National Association of Insurance Commissioners (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office of the resolution.~~

~~c. Any Category A or Category B company that meets all of the criteria set forth in paragraph a or b of this subsection, whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with section 7 of this rule unless the commissioner specifically indicates to the company that the exemption is not to be taken.~~

~~d. Any Category A or Category B company that, for any year beginning with the year in which this rule becomes effective, is not exempted under paragraph c of this subsection is required to submit a statement of actuarial opinion in accordance with section 7 of this rule for the year for which it is not exempt.~~

~~e. Any Category C company that, after submitting an opinion in accordance with section 7 of this rule, meets all of the criteria in subparagraphs A, B, C, and D of this paragraph is not required, unless required in accordance with paragraph f of this subsection, to submit a statement of actuarial opinion in accordance with section 7 of this rule more frequently than every third year. Any Category C company which fails to meet all of the criteria in this paragraph for any year shall submit a statement of actuarial opinion in accordance with section 7 of this rule for that year. The ratios in subparagraphs A, B and C of this paragraph shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~

~~A. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05.~~

~~B. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .50.~~

~~C. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50.~~

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~~D. The examiner team for the National Association of Insurance Commissioners (NAIC) has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable; or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office of the resolution.~~

~~f. Any company which is not required by this section to submit a statement of actuarial opinion in accordance with section 7 of this rule for any year shall submit a statement of actuarial opinion in accordance with section 6 of this rule for that year unless as provided for paragraph a of subsection 2.1 of this rule the commissioner requires a statement of actuarial opinion in accordance with section 7 of this rule.~~

~~5.4. Large Companies. Every Category D company shall submit a statement of actuarial opinion in accordance with section 7 of this rule for each year beginning with the year in which this rule becomes effective.~~

§114-41-6 5. Statement of Actuarial Opinion Not Including Based on an Asset Adequacy Analysis.

~~6 5.1. General Description. The statement of actuarial opinion required by this section shall consist of: a paragraph identifying the appointed actuary and his or her qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this rule from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with section 6 of this rule; a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and an opinion paragraph expressing the appointed actuary's opinion as required by the Standard Valuation Law, W.Va. Code 33-7-9(c).~~

~~a. A paragraph identifying the appointed actuary and his or her qualifications (see paragraphs 1 and 2, subdivision a, subsection 5.2 of this section);~~

~~b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis (see subdivision b, subsection 5.2 of this section) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;~~

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c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios;

d. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities; and

e. One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

2. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

3. If the appointed actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release;

4. If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

~~6.2: 5.2.~~ Recommended Language. The following ~~language provided~~ paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances would ~~should~~ be included in a statement of actuarial opinion. ~~in accordance with this section~~ The appointed actuary may modify the language may be modified as needed to meet the circumstances of a particular case, but ~~the appointed actuary~~ should use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

a. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

~~A~~ 1. For a company actuary, the opening paragraph of the actual opinion should read as follows:

"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to

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render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies.”

B 2. For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:

“I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.”

~~b. The regulatory authority paragraph should include a statement such as the following: “Said company is exempt pursuant to Rule or Regulation [insert designation] of the [name of state] Insurance Department from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with section 6 or the rule.”~~

e b. The scope paragraph should contain a sentence such as the following: “I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, []. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.”

***See Table I**

c. 1. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

“I have relied on [name], [title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"] as certified in the attached statement. I have reviewed the information relied upon for reasonableness.”

2. A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by paragraph 5, subdivision f, subsection 5.2 of this rule.

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d. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

e. 1. If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as the following:

"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

2. The section shall be accompanied by a statement by each person relied upon in the form prescribed by subsection 5.5 of this rule.

f. The opinion paragraph should include a statement such as the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

2. Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

3. Meet the requirements of the Insurance Law and regulation of the state of [state of domicile], and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year- end (with any

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exceptions noted below); and

5. Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.)

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.) Note: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date

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5.3. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this rule.

5.4 Adverse Opinions. If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

5.5 Reliance on Data Furnished by Other Persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy and completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

5.6. Alternate Option.

a. The Standard Valuation Law gives the Commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the statement set forth in paragraph 3 of the opinion paragraph in subdivision f of subsection 5.2 above, the Commissioner may make one or more of the following additional approaches available to the opining actuary:

1. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

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2. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met." If the Commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the Commissioner has not denied the request by that date.

3. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state."

A. If the Commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in subparagraph (ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

B. If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

<u>(1)</u> <u>Product Type</u>	<u>(2)</u> <u>Death Benefit or Account Value</u>	<u>(3)</u> <u>Reserves Held</u>	<u>(4)</u> <u>Codification Reserves</u>	<u>(5)</u> <u>Codification Standard</u>

C. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

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D. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

E. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

b. Notwithstanding the above, the Commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Commissioner after consultation with the company, the Commissioner may contract an independent actuary at the company's expense to prepare and file the opinion.

The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not be necessarily limited to:

~~A. Aggregate reserve and deposit funds for policies and contracts included in exhibit 8 of the Annual Statement;~~

~~B. Aggregate reserve and deposit funds for policies and contracts included in exhibit 9 of the Annual Statement;~~

~~C. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in exhibit 10 of the Annual Statement; and~~

~~D. Policy and contract claims--liability end of current year included in exhibit 11, part I of the Annual Statement.~~

~~d. If the appointed actuary has examined the underlying records, the scope paragraph should also include the following:~~

~~"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."~~

~~e. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the~~

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~~scope paragraph should include a sentence such as one of the following:~~

~~"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~

~~or~~

~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~

~~The statement of the person certifying the actuarial opinion shall follow the form indicated by paragraph j, subsection 6.2 of this rule.~~

~~f. The opinion paragraph should include the following:~~

~~"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:~~

~~A. Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this section;~~

~~B. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;~~

~~C. Meet the requirements of the insurance law and rules or regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;~~

~~D. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below; and~~

~~E. Include provision for all actuarial reserves and related statement items which ought to be established.~~

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~~The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate compliance guidelines as promulgated by the Actuarial Standards Board, which guidelines form the basis of this statement of opinion."~~

~~g. The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this section. It shall include the following:~~

~~"This opinion is provided in accordance with section 7 of the NAIC Actuarial Opinion and Memorandum Regulation. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.~~

~~Eligibility for this section of the rule is confirmed as follows:~~

~~A. The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company as set forth in subsection 5.3 of this rule.~~

~~B. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company as set forth in subsection 5.3 of this rule.~~

~~C. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.~~

~~D. To my knowledge, the NAIC examiner team has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile.~~

~~E. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.~~

Signature of Appointed Actuary

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Address of Appointed Actuary

Telephone Number of Appointed Actuary¹¹

~~h. If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference in subparagraph D, of paragraph f, of subsection 6.2 of this rule to consistency should read as follows:~~

~~... with the exception of the change described on page [] of the annual statement (or in the preceding paragraph).¹¹~~

~~The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this paragraph.~~

~~i. If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.~~

~~j. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion, the statement of a company officer or accounting firm who prepared the underlying data similar to the following:~~

~~¹¹I [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [], prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and~~

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complete.

Signature of the Officer of the Company
or Accounting Firm

Address of the Officer of the Company
or Accounting Firm

Telephone Number of the Officer of the
Company or Accounting Firm"

~~§114-41-7. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis.~~

~~7.1. General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of:~~

~~a. A paragraph identifying the appointed actuary and his or her qualifications such as that set forth in paragraph a of subsection 7.2 of this rule;~~

~~b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, as set forth in paragraph b of subsection 7.2 of this rule, and identifying the reserves and related actuarial items covered by the opinion which have not been analyzed;~~

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~~c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios, as set forth in paragraph c of subsection 7.2 of this rule, supported by a statement of each expert in the form prescribed by subsection 7.5 of this rule; and~~

~~d. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities as set forth in paragraph f of subsection 7.2 of this rule.~~

~~e. One or more additional paragraphs will be needed in individual company cases as follows:~~

~~A. If the appointed actuary considers it necessary to state a qualification of his or her opinion;~~

~~B. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;~~

~~C. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;~~

~~D. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;~~

~~E. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; and~~

~~F. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.~~

~~7.2. Recommended Language. The appointed actuary shall include the paragraphs in this subsection in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The appointed actuary may modify the language as needed to meet the circumstances of a particular case, but should use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.~~

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a. ~~The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:~~

~~"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."~~

~~For a consulting actuary, the opening paragraph should contain a sentence such as:~~

~~"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."~~

b. ~~The scope paragraph should include a statement and table such as the following:~~

~~"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis:~~

~~***SEE TABLE I**~~

~~A. The additional actuarial reserves are the reserves established under paragraphs b or c of subsection 4.5 of this rule.~~

~~B. The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in subsection 4.4 of this rule, by means of symbols which should be defined in footnotes to the table.~~

~~C. Allocated amount.~~

~~c. If the appointed actuary has relied on other experts to develop certain portions~~

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of the analysis, the reliance paragraph should include a statement such as the following:

~~"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, ..."~~

or

~~"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."~~

A statement of reliance on other experts should be accompanied by a statement by each of the experts of the form prescribed by subsection 7.5 of this rule:

~~d. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:~~

~~"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."~~

~~e. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force and/or asset records prepared by the company or a third party, the reliance paragraph should include a sentence such as:~~

~~"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary.";~~

or

~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."~~

The section must be accompanied by a statement by each person relied upon of the form prescribed by subsection 7.5 of this rule:

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~~f. The opinion paragraph should include the following:~~

~~"In my opinion the reserves and related actuarial values concerning the statement items identified above:~~

~~A. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;~~

~~B. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;~~

~~C. Meet the requirements of the Insurance Law and rule or regulation of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;~~

~~D. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and~~

~~E. Include provision for all actuarial reserves and related statement items which ought to be established.~~

~~The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.~~

~~The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.~~

~~This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.~~

~~or~~

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~~The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)~~

~~The actuary should choose one of the above two paragraphs, whichever is applicable:~~

~~The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis:~~

~~Signature of Appointed Actuary~~

~~Address of Appointed Actuary~~

~~Telephone Number of Appointed Actuary¹¹~~

~~7.3. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.~~

~~7.4. Adverse Opinions. If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly~~

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stating the reason(s) for their opinion. This statement should follow the scope paragraph and precede the opinion paragraph:

7.5. ~~Reliance on Data Furnished by Other Persons. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared the underlying data similar to the following:~~

~~"I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19[], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

~~Signature of the Officer of the Company
or Accounting Firm~~

~~Address of the Officer of the Company
or Accounting Firm~~

~~Telephone Number of the Officer of the
Company or Accounting Firm"~~

and/or

~~"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

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~~Signature of the Officer of the Company,
Accounting Firm or the Security Analyst~~

~~Address of the Officer of the Company,
Accounting Firm or the Security Analyst~~

~~Telephone Number of the Officer of the
Company, Accounting Firm or the Security Analyst"~~

§114-41-8 6. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.

§ 6.1. General.

a. In accordance with the Standard Valuation Law, W.Va. Code §33-7-9(c), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. ~~under a section 7 opinion~~ The company shall make the memorandum available for examination by the commissioner upon his or her request but shall be returned to the company after the examination and shall not be considered a record of the insurance department commissioner or subject to automatic filing with the commissioner.

b. In preparing the memorandum, the appointed actuary may rely on, and include as part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of subsection 4.2 of this rule, with respect to the areas covered in the memoranda, and so stated in their memoranda.

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c. If the commissioner request a memorandum and no memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

d. The reviewing actuary shall have the same status an as examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to W.Va. Code §33-2-9(1)(4). The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for anyone of the current year of the preceding three (3) years.

e. In accordance with W.Va. Code §33-7-9(c), the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection 6.3 of this section. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

§ 6.2. Details of the Memorandum Section Documenting Asset Adequacy Analysis. When an actuarial opinion ~~under section 7 of this rule~~ is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in subsection 4.4 of this rule and any additional standards under this rule. It shall specify:

a. For reserves:

A 1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary considers significant;

B 2. Source of liability in force;

C 3. Reserve method and basis;

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Ð 4. Investment reserves; and

E 5. Reinsurance arrangements;

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;

7. Documentation of assumptions to test reserves for the following:

A. Lapse rates (both base and excess);

B. Interest crediting rate strategy;

C. Mortality;

D. Policyholder dividend strategy;

E. Competitor or market interest rate;

F. Annuitization rates;

G. Commissions and expenses; and

H. Morbidity.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

b. For assets;

A 1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

B 2. Investment and disinvestment assumptions;

€ 3. Source of asset data; and

Ð 4. Asset valuation bases; and

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5. Documentation of assumptions made for:

A. Default costs;

B. Bond call function;

C. Mortgage prepayment function;

D. Determining market value for assets sold due to disinvestment

strategy; and

E. Determining yield on assets acquired through the investment

strategy.

This documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

c. Analysis basis

A 1. Methodology;

B 2. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;

C 3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business);

D 4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); and

E 5. ~~Effect of federal income taxes, reinsure and other relevant factors~~ Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

d. Summary of material changes in methods, procedures or assumptions from prior year’s asset adequacy analysis;

† e. Summary of Results; and

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e f. Conclusions(s)

6.3. Details of the Regulatory Asset Adequacy Issues Summary

a. The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

6. Whether the actuary has been satisfied that all options, whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

b. The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

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~~8-3~~ 6.4. Conformity to Standards of Practice. The memorandum shall include a statement:

“Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, Which form the basis for this memorandum.”

6.5. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

a. The appointed actuary must use an appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

b. The amount of the assets used for the AVR must be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

6.6. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

~~§114-41-9~~ 7. Additional Considerations for Analysis:

~~9~~ 7.1. Aggregation. For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with section 7 5 of this rule, reserves and assets may be aggregated by either of the methods set forth in paragraphs subdivisions a or b of this subsection:

~~a. The appointed actuary may aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated; or~~

~~b. The appointed actuary may aggregate the results of asset adequacy analysis of~~

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~~one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:~~

~~A 1. Are developed using consistent economic scenarios; or~~

~~B 2. Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves; or~~

~~C 3. In the event of any aggregation, the actuary must disclose in his or her opinion that the reserves were aggregated on the basis of the method set forth in paragraph subdivision a or b of this subsection, whichever is applicable, and describe the aggregation in the supporting memorandum.~~

~~9 7.2. Selection of Assets for Analysis. The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion of an asset supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection 9 7.3 below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.~~

~~9 7.3. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.~~

~~a. The appointed actuary must use an appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.~~

~~b. The amount of the assets used for the AVR must be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting~~

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particular assets or allocated portions of assets shall be disclosed in the memorandum.

~~9 7.4. Required Interest Scenarios. For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expect to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:~~

- ~~a. Level with no deviation;~~
- ~~b. Uniformly increasing over ten (10) years at a half percent per year and then level;~~
- ~~c. Uniformly increasing at one percent per year over five (5) years and then uniformly decreasing at one percent per year to the original level at the end of the ten (10) years and then level;~~
- ~~d. An immediate increase of three percent (3%) and then level;~~
- ~~e. Uniformly decreasing over ten (10) years at a half percent per year and then level;~~
- ~~f. Uniformly decreasing at one percent per year over five (5) years and then uniformly increasing at one percent per year to the original level at the end of ten (10) years and then level; and~~
- ~~g. An immediate decrease of three percent (3%) and then level.~~

~~For these and other scenarios which may be used, projected interest for a five (5) year Treasury Note need not be reduced beyond the point where the five (5) year Treasury Note yield would be at fifty percent (50%) of its initial level.~~

~~The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.~~

~~9 7.5. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed;~~

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the analyses performed, the bases for assumptions and the results obtained:

TABLE I

Asset Adequacy Tested Amounts Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves(a) (2)	Analysis Method(b)	Other Amount (3)	Total Amount (1)+(2)+(3)(4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefits					
E Disability - Active					
F Disability- Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premium (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts(Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds(Page 3, Line 10.3)					
2. Supplementary Contracts Not Involving Life Contingencies					

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(Page 3, Line 5)					
3. Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
Exhibit 11					
Part 1. Life (Page 3, Line 4.1)					
2. Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3, Line 27)					
TOTAL RESERVES					

IMR (Page Line)	
AVR (Page Line)	(c)