

State of Utah
Administrative Rule Analysis
 Revised November 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R590-162	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-162. Actuarial Opinion and Memorandum Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, and update the Severability section to use the department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-17-503	

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	

Issue, or version	
--------------------------	--

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	
	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until (mm/dd/yyyy):	08/01/2022	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy):	08/08/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.		
Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy): 06/15/2022

R590. Insurance, Administration.

R590-162. Actuarial Opinion and Memorandum Rule.

R590-162-1. Purpose.

_____ The purpose of this rule is to prescribe:

- _____ A. Requirements for statements of actuarial opinion which are to be submitted in accordance with Section 31A-17-503, and for memoranda in support thereof;
- _____ B. Guidance as to the meaning of "adequacy of reserves;" and
- _____ C. Rules applicable to the appointment of an appointed actuary.

R590-162-2. Authority.

_____ This rule is [issued pursuant to the authority vested in the Commissioner of Insurance of the State of Utah under Title 31A, Chapter 17, Part 5]promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-17-503.

R590-162-3. Purpose and Scope.

_____ [This rule shall apply to all companies and fraternal benefit societies that file the life, accident and health annual statement and to all companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this State.

_____ Companies that file the property and casualty annual statement or the health annual statement shall follow the actuarial opinion and supporting actuarial memoranda requirements pursuant to the instructions for these annual statements. Such companies are not subject to actuarial opinion and supporting actuarial memoranda requirements of this rule.

_____ This rule shall be applied in a manner that allows the appointed actuary to utilize professional judgment in performing the asset adequacy analysis and developing the actuarial opinion and supporting memoranda, consistent with applicable actuarial

standards of practice. However, the commissioner shall have the authority to specify the 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.

~~This rule shall be applicable to all annual statements filed with the office of the commissioner after the effective date 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 6 of this rule, and a memorandum in support thereof in accordance with Section 7 of this rule, shall be required each year.]~~

~~(1) The purpose of this rule is to prescribe:~~

~~(a) requirements for statements of actuarial opinion and memoranda in support that are submitted under Section 31A-17-503;~~

~~(b) guidance for adequacy of reserves; and~~

~~(c) rules applicable to an appointed actuary.~~

~~(2)(a) This rule applies to a company that:~~

~~(i) files a life, accident and health annual statement; or~~

~~(ii) is authorized to reinsure life insurance, annuities, or accident and health insurance business.~~

~~(b) This rule allows an appointed actuary to use professional judgment in performing an asset adequacy analysis and developing an actuarial opinion and supporting memoranda, consistent with applicable actuarial standards of practice.~~

R590-162-[4]3. Definitions.

~~[A.]~~ Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~(1) "Actuarial [O]pinion" means [the-]an opinion of an [Appointed Actuary-]appointed actuary regarding the adequacy of [the-]reserves and related actuarial items based on an asset adequacy test [in accordance with Section 6 of this rule-]under Section R590-162-5 and [with applicable Actuarial Standards of Practice-]applicable actuarial standards of practice.~~

~~[B.](2) "Actuarial Standards Board" [is-]means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.~~

~~[C.](3) "Annual [S]statement" means [that-]a statement required [by Section 31A-4-113 to be filed by the company with the office of the commissioner annually-]under Section 31A-4-113.~~

~~[D.](4) "Appointed [A]ctuary" means an[yr] individual who is appointed or retained in accordance with the requirements [set forth in Subsection 5C of this rule-]in Subsection R590-162-4(2) to provide the actuarial opinion and supporting memorandum [as required by-]required under Section 31A-17-503.~~

~~[E.](5)(a) "Asset [A]dequacy [A]analysis" means an analysis that meets the standards [and other requirements referred to in Subsection 5D of this rule. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory-]of practice of the Actuarial Standards Board and this rule and that forms the basis of the statement of actuarial opinion.~~

~~(b) An asset adequacy analysis may take the form of:~~

~~(i) cash flow testing;~~

~~(ii) sensitivity testing; or~~

~~(iii) an application of risk theory.~~

~~[F. "Commissioner" means the Insurance Commissioner of this State.~~

~~[G.](6) "Company" means a life insurance company, a fraternal benefit society, or a reinsurer[subject to the provisions of this rule].~~

~~[H.](7)(a) "Qualified [A]ctuary" means [any individual who meets the requirements set forth in Subsection 5B of this rule-]an individual who:~~

~~(i) is a member in good standing of the American Academy of Actuaries;~~

~~(ii) is qualified to sign a statement of actuarial opinion for a life and health insurance company annual statement in accordance with the American Academy of Actuaries qualification standards for actuaries signing an annual statement; and~~

~~(iii) is familiar with the valuation requirements applicable to a life and health insurance company.~~

~~(b) "Qualified actuary" does not include an individual who:~~

~~(i) has been found by the commissioner, following notice and hearing, to have:~~

~~(A) violated a provision of Utah law in the course of a person's dealings as a qualified actuary;~~

~~(B) been guilty of fraudulent or dishonest practices;~~

~~(C) demonstrated incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;~~

~~(D) submitted to the commissioner, during the past five years, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule or the standards set by the Actuarial Standards Board; or~~

~~(E) resigned or been removed as an actuary within the past five years because of acts or omissions indicated in any adverse report on examination or because of a failure to adhere to generally acceptable actuarial standards; or~~

~~(ii) failed to notify the commissioner of any action taken by a commissioner of another state similar to that in this Subsection (7)(b).~~

~~(c) Notwithstanding Subsection (7)(b), an individual may be reinstated as a qualified actuary by the commissioner.~~

R590-162-[5]4. General Requirements of an Actuarial Opinion.

~~[A. Submission of-](1) Submitting a Statement of Actuarial Opinion.~~

~~(1) There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this rule becomes effective 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 6 of this rule](a) A statement of an appointed actuary setting forth an opinion relating to reserves and related actuarial items held in support of a policy or a contract, entitled Statement of Actuarial Opinion, shall be included with the annual statement.

~~[(2) In the case of a statement of actuarial opinion required to be submitted by-](b) For a foreign or an alien company, the commissioner may accept [the-]a statement of actuarial opinion filed by [such-]a 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]state.~~

~~[(3) Upon-](c) On written request [by the-]of a company, the commissioner may grant an extension [of the date for submission of the-]to submit a statement of actuarial opinion.~~

~~[B. Qualified Actuary~~

~~— A "qualified actuary" is an individual who:~~

~~— (1) Is a member in good standing of the American Academy of Actuaries;~~

~~— (2) 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;~~

~~— (3) Is familiar with the valuation requirements applicable to life and health insurance companies;~~

~~— (4) 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) Violated any provision of, or any obligation imposed by, the Utah Code or other law in the course of his or her dealings as a qualified actuary;~~

~~— (b) Been found guilty of fraudulent or dishonest practices;~~

~~— (c) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;~~

~~— (d) Submitted to the commissioner during the past five 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) Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and~~

~~— (5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Subsection (4) above.~~

~~— C-](2) Appointed Actuary.~~

~~[An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this rule, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. 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 such notice that the person meets the requirements set forth in Subsection 5B of this rule. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give 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 forth in Subsection 5B. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement](a) An appointed actuary shall be appointed either directly by or by the authority of the Board of Directors through an executive officer of the company other than the appointed actuary.~~

~~(b) A company shall:~~

~~(i) 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 by a company as an appointed actuary; and~~

~~(ii) state in the notice that the individual meets the requirements of a qualified actuary.~~

~~(c) When notice is provided, no further notice is required for the appointed actuary, provided the company gives the commissioner timely written notice that the actuary ceases to be appointed or meet the requirements of a qualified actuary.~~

~~(d) If an appointed actuary replaces a previously appointed actuary, the notice shall give the reasons for replacement.~~

~~[— D. Standards for Asset Adequacy Analysis~~

~~The asset adequacy analysis required by this rule:~~

~~(1) 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, which standards are to form the basis of the statement of actuarial opinion in accordance with this rule; and~~

~~(2) shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.]~~

~~[E-](3) Liabilities to be Covered.~~

~~[(4) Under authority of-](a) Under Section 31A-17-503, [the-]a statement of actuarial opinion [shall apply to all-]applies to an in[-]force business on the statement date, whether directly issued or assumed, regardless of when or where issued.~~

~~[(2) If the-](b) If an appointed actuary determines, as the result of an asset adequacy analysis, that a reserve should be held in addition to the aggregate reserve held by [the-]a company and calculated in accordance with methods [set forth in-]under Title 31A, Chapter 17, Part 5, Standard Valuation Law, the company shall establish [such-]the additional reserve.~~

~~[(3)](c) Additional reserves established under Subsection [(2) above and deemed-](3)(b) and considered not necessary in subsequent years may be released.[-Any amounts-]~~

~~(i) Reserves that are released [must-]shall be disclosed in the actuarial opinion for the applicable year.~~

~~(ii) The release of [such-]reserves [would not be deemed-]is not an adoption of a lower standard of valuation.~~

R590-162-~~6~~5. Statement of Actuarial Opinion Based ~~On~~ an Asset Adequacy Analysis.

~~[A.](1) General Description.~~

~~[(1) The]~~ (a) A statement of actuarial opinion ~~[submitted in accordance with this section shall consist of]~~ based on an asset adequacy analysis shall include a paragraph identifying:

~~[(a) a paragraph identifying]~~ (i) the appointed actuary and ~~[his or her]~~ the appointed actuary's qualifications ~~[as specified in Subsection 6B(1) of this rule];~~

~~[(b) a scope paragraph identifying the subjects on which an opinion is to be expressed and]~~ (ii) the scope of the actuarial opinion, describing ~~[the scope of]:~~

~~_____ (A) the appointed actuary's work, [including] with a tabulation delineating the reserves and related actuarial items [which have been] analyzed for asset adequacy and the method of analysis [as specified in Subsection 6B(2) of this rule, and identifying]; and~~

~~_____ (B) the reserves and related actuarial items covered by the opinion [which have not been so] that were not analyzed;~~

~~[(c) a reliance paragraph describing those areas, if any,]~~ (iii) the areas where the appointed actuary ~~[has]~~ deferred to another expert[s] in developing data, procedures, or assumptions, ~~[e.g.,] such as~~ anticipated cash flows from currently owned assets[-] including variation in cash flows according to economic scenarios ~~[as specified in Subsection 6B(3) of this rule], supported by a statement of each [such] expert in the form prescribed by Subsection 6E of this rule~~ (5); and

~~[(d) an opinion paragraph expressing]~~ (iv) the appointed actuary's opinion ~~[with respect to]~~ of the adequacy of the supporting assets to mature the liabilities ~~[as specified in Subsection 6B(6) of this rule].~~

~~[(2) One or more additional]~~ (b) Additional paragraphs ~~[will] may~~ be needed ~~[in individual company cases as follows]~~ if the appointed actuary:

~~[(a) if the appointed actuary]~~ (i) considers it necessary to state a qualification of the opinion;

~~[(b) if the appointed actuary must]~~ (ii) is required to disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

~~[(c) if the appointed actuary must]~~ (iii) is required to disclose reliance upon ~~[any] a~~ 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]~~ (iv) is required to disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior ~~[opinion date with that used for this] year~~ opinion;

~~[(e) if the appointed actuary must]~~ (v) is required to disclose whether additional reserves of the prior year opinion ~~[date] are~~ released as of ~~[this opinion date] the current year opinion~~, and the extent of the release; or

~~[(f) if the appointed actuary]~~ (vi) chooses to add a paragraph briefly describing the assumptions ~~[which] that~~ form the basis for the actuarial opinion.

~~[B. Recommended]~~ (2) Required Language.

~~[The following paragraphs are to be included 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 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.]~~ The language in a statement of actuarial opinion may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language that clearly expresses the appointed actuary's professional judgment. The following paragraphs shall be included in the statement of actuarial opinion.

~~[(4)]~~ (a) (i) The opening paragraph ~~[should generally indicate]~~ shall state the appointed actuary's relationship to the company and ~~[his or her]~~ the appointed actuary's qualifications to sign the opinion.

~~_____ (ii) For a company actuary, the opening paragraph of the actuarial opinion [should] shall~~ 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."

~~_____ (iii) For a consulting actuary, the opening paragraph [should contain a sentence such as] shall~~ read as follows:

"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."

~~[(2)]~~ (b) The scope paragraph ~~[should] shall~~ include ~~[a statement such as]~~ the following statement:

"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, ~~[20(-)]20~~. [-]Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

~~[(3)]~~ (c) (i) If ~~[the] an~~ appointed actuary ~~[has relied] relies~~ on another expert[s] to develop certain portions of the analysis, ~~[the] a~~ reliance paragraph ~~[should] shall~~ include ~~[a statement such as]~~ the following statement:

"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."

~~[Such a](ii) A statement of reliance on another expert~~~~[s should]~~ shall be accompanied by a statement ~~[by each of such experts of the]~~ from each expert in a form prescribed by Subsection ~~[6E of this rule](5)~~.

~~[(4)](d) If [the]an appointed actuary [has]examined the underlying asset and liability records, the reliance paragraph [should also]shall 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. [-]I also reconciled the underlying basic asset and liability records to (exhibits and schedules listed as applicable) of the company's current annual statement."

~~[(5)](e)(i) If [the]an 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 or a third party, the reliance paragraph [should include a statement such as]shall include the following statement:~~

"In forming my opinion on (specify types of reserves) I have relied upon data prepared by (name and title of company officer certifying in-force records or other data) as certified in the attached statement. [-]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 such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

~~[Such a](ii) A statement of reliance [must]shall be accompanied by a statement [by]from each person relied upon [of the]~~ in a form prescribed by Subsection ~~[6E of this rule](5)~~.

~~[(6)](f) The opinion paragraph [should include the following]shall include:~~

[

TABLE

- ~~—(a) "In my opinion the reserves and related actuarial values concerning the statement items identified above:~~
- ~~—(i) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;~~
- ~~—(ii) 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;~~
- ~~—(iii) meet the requirements of the Insurance Law and rule 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;~~
- ~~—(iv) 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);~~
- ~~—(v) include provision for all actuarial reserves and related statement items which ought to be established;"~~
- ~~—(b) "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;"~~
- ~~—(c) "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;"~~
- ~~and~~
- ~~—(d) "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 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 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:]

- (i) "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 laws and rules 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);
(E) include provision for all actuarial reserves and related statement items which ought to be established";
(ii) "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";
(iii) "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";
(iv)(A) "This opinion is updated annually as required by statute. To be 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
(B) "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)";
(v) "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"; and
(vi) a signature block including the:
(A) signature of the appointed actuary;
(B) address of the appointed actuary;
(C) telephone number of the appointed actuary; and
(D) date.

[C-](3) Assumption[s] for New Issue[s].

The adoption for new issues or new claims or other new liabilities of an actuarial assumption [~~which~~]that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in an actuarial assumption[s] within the meaning of this [S]section[6].

[D-](4) Adverse Opinion[s].

(a) If [~~the~~]an appointed actuary [~~is unable to~~]cannot form an opinion, [~~then~~]the actuary shall refuse to issue a statement of actuarial opinion.

(b)(i) If [~~the~~]an appointed actuary's opinion is adverse or qualified, [~~then~~]the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason[s] for [~~such~~]the opinion. [~~This statement should~~]

(ii) The explicit statement required under Subsection (4)(b)(i) shall follow the scope paragraph and precede the opinion paragraph.

[E-](5) Reliance on Data Furnished by Other Persons.

(a) If [~~the~~]an appointed actuary relies on the certification of others on matters concerning the accuracy or 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~~]shall state the persons the actuary is relying [~~up~~]on and [~~a precise identification of~~]identify the items [~~subject to the reliance~~]the actuary is relying on.

[~~In addition, the~~](b)(i) A person[s on whom] that the appointed actuary relies on shall provide a certification that [~~precisely~~]identifies the items [~~on which~~]the person is providing information about and a statement as to the accuracy, completeness, or reasonableness[~~, as applicable,~~] of the items. [~~This~~]

(ii) The certification shall include the signature, date, title, company, address, and telephone number of the person [~~rendering~~]providing the certification[~~, as well as the date on which it is signed~~].

[F-](6) Alternate Option.

(4)(a) As an alternative to the requirements of Subsection [~~B(6)(a)(iii) of this rule~~](2)(f)(i)(C), [~~the~~]an appointed actuary may state that the reserves and related actuarial values "meet the requirements of the [F]insurance [L]laws and rules of the State of (state of domicile) and I have verified that the company's request to file an opinion based on the laws of the state of domicile has been approved by the commissioner and that any conditions required by the commissioner for approval of [~~that~~]the request have been met."

(2)(b)(i) To use [~~this~~]an alternative, the company shall file a request [~~to do so~~]with the commissioner, along with [~~the~~]

Justification for its use, no later than April 30 of the year ~~of~~ the opinion ~~to be~~ is filed.

~~(ii)~~ The request ~~shall be deemed~~ is approved on October 1 of that year if the commissioner has not denied the request by that date.

~~(3)~~ ~~Notwithstanding the above, the~~ ~~(c)(i)~~ The commissioner may reject an opinion based on the laws of the state of domicile and require an opinion based on the laws of this ~~(S)~~ state.

~~(ii)~~ If a company ~~is unable to~~ cannot provide the opinion within ~~sixty~~ 60 days of the request or ~~such other period of time~~ other period determined by the commissioner after consultation with the company, the commissioner may contract with an independent actuary at the company's expense to prepare and file the opinion.

R590-162-~~(7)~~6. Description of Actuarial Memorandum Including an Asset Adequacy Analysis.

~~A~~ ~~(1)~~ General Provisions of Actuarial Memorandum.

~~(1)~~ ~~In accordance with~~ ~~(a)(i)~~ Under Section 31A-17-503, ~~the~~ an appointed actuary shall prepare a memorandum to ~~the~~ a company describing the analysis done in support of the opinion ~~regarding the~~ with respect to reserves. ~~The memorandum shall be made~~, and shall make it available for examination by the commissioner upon request. ~~but~~

~~(ii)~~ The memorandum shall be returned to the company after ~~such~~ examination by the commissioner and ~~shall not be~~ is not considered a record of the ~~insurance~~ department or subject to automatic filing with the commissioner.

~~(2)~~ ~~(b)~~ In preparing the memorandum, the appointed actuary may rely on, and include as a part of ~~his or her own~~ the memorandum, memoranda prepared and signed by other qualified actuaries ~~who are qualified within the meaning of Subsection 5B of this rule~~, with respect to the areas covered in ~~such~~ the memoranda, ~~and so state in their memoranda~~.

~~(3)~~ ~~(c)(i)~~ If the commissioner requests a memorandum and ~~no such~~ a memorandum does not exist[s] 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~~ a supporting memorandum as ~~is~~ required for review. ~~The~~

~~(ii)~~ A reasonable and necessary expense of the independent review shall be paid by the company but ~~shall be~~ the review is directed and controlled by the commissioner.

~~(4)~~ ~~(d)(i)~~ The reviewing actuary ~~shall have~~ has the same status as an examiner for purposes of obtaining data from the company. ~~and the~~

~~(ii)~~ The work papers and documentation of the reviewing actuary ~~shall be~~ are 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~~ are considered material provided by the company to the commissioner and ~~shall be~~ are 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 ~~the statute governing this rule~~ Section 31A-17-517.

~~(iii)~~ The reviewing actuary ~~shall~~ may 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 ~~any one of~~ the current year or the preceding three years.

~~(5)~~ ~~(a)~~ ~~In accordance with~~ ~~(e)(i)~~ Under Section 31A-17-503, the appointed actuary shall prepare a regulatory asset adequacy issues summary, ~~the content of which are specified in Subsection C~~ pursuant to Subsection (3).

~~(b)~~ ~~Every~~ ~~(ii)~~ A company domiciled in this state shall submit the regulatory asset adequacy issues summary no later than March 15 of the year following the year ~~for which~~ a statement of actuarial opinion based on asset adequacy is required.

~~(c)~~ ~~Every~~ ~~(iii)~~ A foreign company ~~is required to~~ shall make the regulatory asset adequacy issues summary available to the commissioner upon request.

~~(d)~~ ~~(iv)~~ The regulatory asset adequacy issues summary ~~shall be~~ is kept confidential to the same extent and under the same conditions as the actuarial memorandum.

~~B~~ ~~(2)~~ Detail[s] of the Memorandum [Section] Documenting Asset Adequacy Analysis.

~~When an actuarial opinion is provided, the~~ The memorandum documenting asset adequacy analysis shall demonstrate that the analysis ~~has been~~ was done in accordance with the standards for asset adequacy ~~referred to in Subsection 5D of this rule and any additional standards under this rule. It shall specify~~ and shall include:

~~(1)~~ ~~(a)~~ for reserves:

~~(a)~~ ~~(i)~~ product descriptions including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary ~~deems~~ considers significant;

~~(b)~~ ~~(ii)~~ source of liability in force;

~~(c)~~ ~~(iii)~~ reserve method and basis;

~~(d)~~ ~~(iv)~~ investment reserves;

~~(e)~~ ~~(v)~~ reinsurance arrangements;

~~(f)~~ ~~(vi)~~ identification of an ~~y~~ explicit or implied guarantee[s] made, the general account in support of benefits provided through a separate account or under a separate account policy or contract, and the method[s] used by the appointed actuary to provide for the guarantee[s] in the asset adequacy analysis; and

~~(g)~~ ~~(vii)~~ documentation of assumptions to test reserves for the following:

~~(1)~~ ~~(A)~~ lapse rates ~~including both base and excess~~;

~~(2)~~ ~~(B)~~ interest crediting strategy;

~~(3)~~ ~~(C)~~ mortality;

~~(4)~~ ~~(D)~~ policyholder dividend strategy;

~~(5)~~ ~~(E)~~ competitor or market interest rate;

- ~~(vi)~~(F) annuitization rates;
- ~~(vii)~~(G) commissions and expenses; and
- ~~(viii)~~(H) morbidity;
- ~~(2)~~(b) for assets:
 - ~~(a)~~(i) portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;
 - ~~(b)~~(ii) investment and disinvestment assumptions;
 - ~~(c)~~(iii) source of asset data;
 - ~~(d)~~(iv) asset valuation bases; and
 - ~~(e)~~(v) documentation of assumptions made for:
 - ~~(i)~~(A) default costs;
 - ~~(ii)~~(B) bond call function;
 - ~~(iii)~~(C) mortgage prepayment function;
 - ~~(iv)~~(D) determining market value for assets sold due to disinvestment strategy; and
 - ~~(v)~~(E) determining yield on assets acquired through the investment strategy;
- ~~(3)~~(c) for the analysis basis:
 - ~~(a)~~(i) methodology;
 - ~~(b)~~(ii) rationale for inclusion ~~or exclusion~~ of different blocks of business and how pertinent risks were analyzed;
 - ~~(c)~~(iii) rationale for degree of rigor in analyzing different blocks of business ~~(include in the rationale), including the level of [] materiality [] that was used in determining [] used to determine how rigorously to analyze different blocks of business []~~;
 - ~~(d)~~(iv) criteria for determining asset adequacy ~~(include in []), including the criteria [the precise basis for determining] used to determine if assets are adequate to cover reserves under [] moderately adverse conditions [] or other conditions [as] specified in relevant actuarial standards of practice []~~; and
 - ~~(e)~~(v) effect of federal income taxes, reinsurance, and other relevant factors;
- ~~(4)~~(d) summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;
- ~~(5)~~(e) summary of ~~[R]~~ results; and
- ~~(6)~~(f) conclusions.

~~C~~(3) Detail[s] of the Regulatory Asset Adequacy Issues Summary.

~~(1) The~~ A regulatory asset adequacy issues summary shall include:

- (a) a description~~s~~ of the scenarios tested ~~(including whether those scenarios are stochastic or deterministic [])~~, and the sensitivity testing done relative to those scenarios ~~(if [])~~;
 - (i) if negative ending surplus results under certain tests in aggregate, the actuary ~~should~~ shall describe those tests and the amount of additional reserve as of the valuation date ~~which that, if held, would eliminate the negative aggregate surplus values [Ending]~~; and
 - (ii) 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;
 - (b) 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;
 - (c) the amount of reserves and the identity of the product lines ~~that had been] subject [ed] to asset adequacy analysis in the prior year opinion but [were] not subject to analysis for the current year opinion~~;
 - (d) comments on any interim results that may be of significant concern to the appointed actuary ~~(For []), for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserve during one or more interim periods~~;
 - (e) 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 scenario tested; ~~and []~~
 - (f) whether the actuary ~~has been] is~~ 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 an [] investment [s have been] were appropriately considered in the asset adequacy analysis []~~;
- ~~(2) 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 []~~;
- (g) the name of the company the regulatory asset adequacy issues summary is being prepared for;
 - (h) the signature of the appointed actuary; and
 - (i) the date of the actuarial opinion.

~~D~~(4) Documentation.

- (a) The appointed actuary shall retain ~~on file~~, for at least seven 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~~.
- (b) The documentation ~~of the assumptions] shall be of such quality that an actuary reviewing the actuarial memorandum [could] can form a conclusion as to the reasonableness of the assumptions~~.

R590-162-~~8~~7. Exemptions.

~~A~~(1) Unless ordered by the commissioner, a company that is under supervision, rehabilitation, or liquidation is exempt

from the requirements of this rule.

~~[B-(1)](2)(a)~~ At the discretion of the commissioner, a company domiciled in this [S]state and doing business only in this [S]state may submit an opinion without the statement required under Subsection R590-162-~~6(B)(6)(b)~~5(2)(f)(ii).

~~(2)(b)~~ If the commissioner grants an exemption under Subsection ~~[B-(1)](2)(a)~~, the company ~~shall be~~is exempt from preparing and submitting the ~~[RAAIS-]regulatory asset adequacy issues summary~~ document required under Subsection R590-162-~~7(A)(5)~~6(1)(e).

~~[C-(1)](3)~~ A company domiciled in this [S]state~~[-, and otherwise subject to the requirements of this rule,]~~ may apply to the commissioner for an exemption from:

(a) the requirement to submit an actuarial opinion ~~[required-]~~under Subsection R590-162-~~5(A)(1)~~4(1)(a);

(b) the requirement to include within its actuarial opinion the statement ~~[required-]~~under Subsection R590-162-~~6(B)(6)(b)~~5(2)(f)(ii); or

(c) the requirement to prepare and submit the ~~[RAAIS-]regulatory asset adequacy issues summary~~ document ~~[required-]~~under Subsection R590-162-~~7(A)(5)~~6(1)(e).

(2) A company seeking an exemption under Subsection ~~[C-(1)](3)~~ shall:

(a) submit a written request for an exemption no later than November 1 of the year for which the exemption is sought; and

(b) provide a written explanation and supporting documents~~[-, if any,]~~ explaining how complying with the requirement for which an exemption is sought would not enhance the department's understanding of the financial position of the company and, therefore, be an unnecessary burden on the company.

R590-162-~~9~~8. Severability.

~~[If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.]If any provision of this rule, Rule R590-162, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

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