

Article - Insurance

[Previous][Next]

§5–201. IN EFFECT

(a) (1) In this section the following words have the meanings indicated.

(2) “Opinion” means an opinion issued by a qualified actuary and developed in accordance with the standards of practice of the Actuarial Standards Board.

(3) “Qualified actuary” means a member in good standing of the American Academy of Actuaries who meets the qualification standards of the Academy for issuing an opinion required by this section.

(b) (1) In addition to the requirement of paragraph (2) of this subsection, the aggregate reserves for all policies, contracts, and benefit agreements of a life insurer may not be less than the aggregate reserves computed under Subtitle 3 of this title.

(2) (i) The aggregate reserves for all policies, contracts, and benefit agreements of a life insurer, nonprofit health service plan, or fraternal benefit society may not be less than the aggregate reserves that a qualified actuary determines to be necessary under subsection (d) of this section.

(ii) By regulation, the Commissioner may provide for a transition period to establish any higher reserves required by this paragraph.

(c) Each life insurer, nonprofit health service plan, and fraternal benefit society that does business in the State shall submit annually the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the life insurer’s policies, contracts, and benefit agreements are:

- (1) computed appropriately;
- (2) based on assumptions that satisfy contractual provisions;
- (3) consistent with prior reported amounts; and
- (4) in compliance with applicable laws of the State.

(d) (1) Except as exempted by regulations adopted by the Commissioner, each life insurer, nonprofit health service plan, and fraternal benefit society shall include with the opinion required by subsection (c) of this section an additional opinion of the same qualified actuary, stating whether the reserves and related actuarial items that are held in support of the policies, contracts, and benefit agreements by the life insurer, nonprofit health service plan, or fraternal benefit society are adequate to meet its obligations under its policies, contracts, and benefit agreements, in light of the assets held with respect to the reserves and related actuarial items.

(2) The obligations of a life insurer, nonprofit health service plan, or fraternal benefit society under its policies, contracts, and benefit agreements include benefits to be provided and associated expenses that may reasonably be expected.

(3) In reviewing the assets held by the life insurer, nonprofit health service plan, or fraternal benefit society with respect to the reserves and related actuarial items, the qualified actuary shall consider the expected investment earnings on the assets and other consideration that the life insurer, nonprofit health service plan, or fraternal benefit society expects to receive and retain under the policies, contracts, and benefit agreements.

(e) (1) A memorandum acceptable to the Commissioner shall be prepared to support each opinion required under this section.

(2) The supporting memorandum shall be in the form and contain the information that is specified by regulation.

(3) The life insurer, nonprofit health service plan, or fraternal benefit society shall:

(i) keep the supporting memorandum in its home office; and

(ii) on request, submit a copy of the memorandum to the Commissioner.

(4) The Commissioner may engage a qualified actuary at the expense of the life insurer, nonprofit health service plan, or fraternal benefit society to review each opinion and prepare a supporting memorandum if:

(i) the life insurer, nonprofit health service plan, or fraternal benefit society fails to provide a supporting memorandum within the period specified by regulation; or

(ii) the Commissioner determines that the supporting memorandum that the life insurer, nonprofit health service plan, or fraternal benefit society provides fails to meet necessary standards or is unacceptable.

(f) (1) Each opinion required by this section shall:

(i) be submitted with the annual statement required by this article and reflect the valuation of the reserve liabilities of the life insurer, nonprofit health service plan, or fraternal benefit society;

(ii) apply to all business in force, including individual and group health insurance plans; and

(iii) be based on standards adopted by the Actuarial Standards Board.

(2) The Commissioner may adopt regulations to establish additional requirements for an opinion.

(3) For a foreign insurer or alien insurer, the Commissioner may accept an opinion that the foreign insurer or alien insurer files with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a life insurer, nonprofit health service plan, or fraternal benefit society domiciled in this State.

(g) (1) Except as provided in subsection (h) of this section, the Commissioner shall keep confidential and may not make public any memorandum or other material that the life insurer, nonprofit health service plan, or fraternal benefit society provides in connection with an opinion issued under this section.

(2) A memorandum or other material provided to the Commissioner is not subject to a subpoena except for defending in a suit that:

- (i) seeks damages from any person; and
- (ii) is based on an action required by this section.

(h) (1) The Commissioner may release a memorandum or other material provided to the Commissioner:

(i) with the written consent of the life insurer, nonprofit health service plan, or fraternal benefit society that provides the memorandum or material; or

(ii) to the American Academy of Actuaries, if the Academy:

1. requests the memorandum or other material for professional disciplinary proceedings; and

2. sets forth procedures satisfactory to the Commissioner to preserve the confidentiality of the memorandum or other material.

(2) All parts of a memorandum or other material are no longer confidential if any part of the memorandum or material is:

(i) cited by the life insurer, nonprofit health service plan, or fraternal benefit society in its marketing;

(ii) cited before a governmental unit other than a State insurance department; or

(iii) released by the life insurer, nonprofit health service plan, or fraternal benefit society to the news media.

(i) Except for fraud, willful misconduct, or gross negligence, a qualified actuary

is not liable for damages to any person other than the life insurer, nonprofit health service plan, fraternal benefit society, or the Commissioner for any act, error, omission, decision, or conduct related to an opinion that the qualified actuary issues under this section.

(j) The Commissioner shall adopt regulations to establish disciplinary action against a life insurer, nonprofit health service plan, fraternal benefit society, or qualified actuary that violates this section.

5–201. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 367 OF 2015 **

(a) (1) In this section the following words have the meanings indicated.

(2) “Operative date of the valuation manual” has the meaning stated in § 5–201.1 of this subtitle.

(3) “Opinion” means an opinion issued by a qualified actuary and developed in accordance with the standards of practice of the Actuarial Standards Board.

(4) “Qualified actuary” means a member in good standing of the American Academy of Actuaries who meets the qualification standards of the Academy for issuing an opinion required by this section.

(b) This section applies to reserve requirements and opinions relating to reserve requirements for policies, contracts, and benefit agreements of life insurers, nonprofit health service plans, and fraternal benefit societies required before the operative date of the valuation manual.

(c) (1) In addition to the requirement of paragraph (2) of this subsection, the aggregate reserves for all policies, contracts, and benefit agreements of a life insurer may not be less than the aggregate reserves computed under Subtitle 3 of this title.

(2) (i) The aggregate reserves for all policies, contracts, and benefit agreements of a life insurer, nonprofit health service plan, or fraternal benefit society may not be less than the aggregate reserves that a qualified actuary determines to be necessary under subsection (e) of this section.

(ii) By regulation, the Commissioner may provide for a transition period to establish any higher reserves required by this paragraph.

(d) Each life insurer, nonprofit health service plan, and fraternal benefit society that does business in the State shall submit annually the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the life insurer’s policies, contracts, and benefit agreements are:

(1) computed appropriately;

- (2) based on assumptions that satisfy contractual provisions;
- (3) consistent with prior reported amounts; and
- (4) in compliance with applicable laws of the State.

(e) (1) Except as exempted by regulations adopted by the Commissioner, each life insurer, nonprofit health service plan, and fraternal benefit society shall include with the opinion required by subsection (d) of this section an additional opinion of the same qualified actuary, stating whether the reserves and related actuarial items that are held in support of the policies, contracts, and benefit agreements by the life insurer, nonprofit health service plan, or fraternal benefit society are adequate to meet its obligations under its policies, contracts, and benefit agreements, in light of the assets held with respect to the reserves and related actuarial items.

(2) The obligations of a life insurer, nonprofit health service plan, or fraternal benefit society under its policies, contracts, and benefit agreements include benefits to be provided and associated expenses that may reasonably be expected.

(3) In reviewing the assets held by the life insurer, nonprofit health service plan, or fraternal benefit society with respect to the reserves and related actuarial items, the qualified actuary shall consider the expected investment earnings on the assets and other consideration that the life insurer, nonprofit health service plan, or fraternal benefit society expects to receive and retain under the policies, contracts, and benefit agreements.

(f) (1) A memorandum acceptable to the Commissioner shall be prepared to support each opinion required under this section.

(2) The supporting memorandum shall be in the form and contain the information that is specified by regulation.

(3) The life insurer, nonprofit health service plan, or fraternal benefit society shall:

(i) keep the supporting memorandum in its home office; and

(ii) on request, submit a copy of the memorandum to the Commissioner.

(4) The Commissioner may engage a qualified actuary at the expense of the life insurer, nonprofit health service plan, or fraternal benefit society to review each opinion and prepare a supporting memorandum if:

(i) the life insurer, nonprofit health service plan, or fraternal benefit society fails to provide a supporting memorandum within the period specified by regulation; or

(ii) the Commissioner determines that the supporting memorandum that the life insurer, nonprofit health service plan, or fraternal benefit society provides fails to meet necessary standards or is unacceptable.

(g) (1) Each opinion required by this section shall:

(i) be submitted with the annual statement required by this article and reflect the valuation of the reserve liabilities of the life insurer, nonprofit health service plan, or fraternal benefit society;

(ii) apply to all business in force, including individual and group health insurance plans; and

(iii) be based on standards adopted by the Actuarial Standards Board.

(2) The Commissioner may adopt regulations to establish additional requirements for an opinion.

(3) For a foreign insurer or alien insurer, the Commissioner may accept an opinion that the foreign insurer or alien insurer files with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a life insurer, nonprofit health service plan, or fraternal benefit society domiciled in this State.

(h) (1) Except as provided in subsection (i) of this section, the Commissioner shall keep confidential and may not make public any memorandum or other material that the life insurer, nonprofit health service plan, or fraternal benefit society provides in connection with an opinion issued under this section.

(2) A memorandum or other material provided to the Commissioner is not subject to a subpoena except for defending in a suit that:

(i) seeks damages from any person; and

(ii) is based on an action required by this section.

(i) (1) The Commissioner may release a memorandum or other material provided to the Commissioner:

(i) with the written consent of the life insurer, nonprofit health service plan, or fraternal benefit society that provides the memorandum or material; or

(ii) to the American Academy of Actuaries, if the Academy:

1. requests the memorandum or other material for professional disciplinary proceedings; and

2. sets forth procedures satisfactory to the Commissioner to

preserve the confidentiality of the memorandum or other material.

(2) All parts of a memorandum or other material are no longer confidential if any part of the memorandum or material is:

(i) cited by the life insurer, nonprofit health service plan, or fraternal benefit society in its marketing;

(ii) cited before a governmental unit other than a State insurance department; or

(iii) released by the life insurer, nonprofit health service plan, or fraternal benefit society to the news media.

(j) Except for fraud, willful misconduct, or gross negligence, a qualified actuary is not liable for damages to any person other than the life insurer, nonprofit health service plan, fraternal benefit society, or the Commissioner for any act, error, omission, decision, or conduct related to an opinion that the qualified actuary issues under this section.

(k) The Commissioner shall adopt regulations to establish disciplinary action against a life insurer, nonprofit health service plan, fraternal benefit society, or qualified actuary that violates this section.

[Previous][Next]