

ACTUARIAL OPINION AND MEMORANDUM REGULATION

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Section 1. Purpose

The purpose of this regulation is to prescribe:

- A. Requirements for statements of actuarial opinion that are to be submitted in accordance with [insert state equivalent to Section 3 of the Standard Valuation Law], and for memoranda in support thereof;
- B. Rules applicable to the appointment of an appointed actuary; and
- C. Guidance as to the meaning of “adequacy of reserves.”

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of [insert state] under [insert citation, generally the state’s standard valuation law]. This regulation will take effect for annual statements for the year 20[].

Section 3. Scope

This regulation shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation 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.

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

Section 4. Definitions

- A. “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 regulation and with applicable Actuarial Standards of Practice.
- B. “Actuarial Standards Board” means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.
- C. “Annual statement” means that statement required by Section [insert applicable section] of the Insurance Law to be filed by the company with the office of the commissioner annually.

- D. “Appointed actuary” means an individual who is appointed or retained in accordance with the requirements set forth in Section 5C of this regulation to provide the actuarial opinion and supporting memorandum as required by [insert reference to state equivalent of Section 3 of the Standard Valuation Law].
- E. “Asset adequacy analysis” means an analysis that meets the standards and other requirements referred to in Section 5D of this regulation.
- F. “Commissioner” means the Insurance Commissioner of this State.
- G. “Company” means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this regulation.
- H. “Qualified actuary” means an individual who meets the requirements set forth in Section 5B of this regulation.

Section 5. General Requirements

- A. Submission of 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 regulation 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 regulation.
 - (2) Upon written request by the company, the commissioner may grant an extension of the date for submission of the 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 Insurance Law 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 (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or
 - (e) 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 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 Paragraph (4) above.
- C. **Appointed Actuary.** An “appointed actuary” is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this regulation, 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 the notice that the person meets the requirements set forth in Subsection B. 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 B. 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.
- D. **Standards for Asset Adequacy Analysis.** The asset adequacy analysis required by this regulation:
- (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 regulation, which standards are to form the basis of the statement of actuarial opinion in accordance with this regulation; and
 - (2) Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.
- E. **Liabilities to be covered.**
- (1) Under authority of [insert state equivalent of Section 3 of the Standard Valuation Law], the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 8, 9 and 10, and claim liabilities in Exhibit 11, Part 1 and equivalent items in the separate account statement or statements.
 - (2) 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, the company shall establish the additional reserve.
 - (3) Additional reserves established under Paragraph (2) above and deemed 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 such reserves would not be deemed an adoption of a lower standard of valuation.

Section 6. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis

- A. **General Description.** The statement of actuarial opinion submitted in accordance with this section shall consist of:
- (1) A paragraph identifying the appointed actuary and his or her qualifications (see Subsection B(1));
 - (2) 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 Subsection B(2)) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

- (3) 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 (see Subsection B(3)), supported by a statement of each such expert in the form prescribed by Subsection E; and
 - (4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection B(6)).
 - (5) 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 an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;
 - (c) 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;
 - (d) If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.
- B. Recommended 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 that 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.
- (1) 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 include a statement such as:

“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 include a statement 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.”
 - (2) The scope paragraph should include a statement such as:

“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[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

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 Benefit					
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					
Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 10 (Column 1, Line 14)					

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 11 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					

IMR (General Account, Page ___ Line ___)	
(Separate Accounts, Page ___ Line ___)	
AVR (Page ___ Line ___)	(c)
Net Deferred and Uncollected Premium	

Drafting Notes: (a) The additional actuarial reserves are the reserves established under Paragraph (2) of Section 5E; (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 5D of this regulation, by means of symbols that should be defined in footnotes to the table; (c) Allocated amount of Asset Valuation Reserve (AVR).

- (3) 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:

“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.”

A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by Section 6E.

- (4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as:

“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) 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:

“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.”

The section shall be accompanied by a statement by each person relied upon in the form prescribed by Subsection E.

- (6) The opinion paragraph should include a statement such as:

“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 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;
- (c) 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;
- (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 the 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.)

Drafting 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"

C. 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 Section 6.

D. 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.

E. Reliance on Information Furnished by Other Persons

If the 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 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.

F. Alternate Option

- (1) 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 requirements of Subsection B(6)(c), the commissioner may make one or more of the following additional approaches available to the opining actuary:

- (a) 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.
- (b) 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.
- (c) 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.”
 - (i) If the commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in Item (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.
 - (ii) 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:

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

- (iii) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.
- (iv) 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.

- (v) The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.
- (2) 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.

Section 7. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

A. General

- (1) In accordance with [insert state equivalent of Section 3 of the Standard Valuation Law], the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.
- (2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Section 5B of this regulation, with respect to the areas covered in such memoranda, and so state in their memoranda.
- (3) If the commissioner requests a memorandum and no such 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 regulation, 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.
- (4) The reviewing actuary shall have the same status as an 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 the statute governing this regulation. 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 regulation for any one of the current year or the preceding three (3) years.
- (5) In accordance with [insert reference to state equivalent to Section 3 of the Standard Valuation Law], the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. 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.

B. Details of the Memorandum Section Documenting Asset Adequacy Analysis

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

- (1) For reserves:
 - (a) Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
 - (b) Source of liability in force;
 - (c) Reserve method and basis;
 - (d) Investment reserves;
 - (e) Reinsurance arrangements;
 - (f) 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;
 - (g) Documentation of assumptions to test reserves for the following:
 - (i) Lapse rates (both base and excess);
 - (ii) Interest crediting rate strategy;
 - (iii) Mortality;
 - (iv) Policyholder dividend strategy;
 - (v) Competitor or market interest rate;
 - (vi) Annuitization rates;
 - (vii) Commissions and expenses; and
 - (viii) 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.

- (2) For assets:
 - (a) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
 - (b) Investment and disinvestment assumptions;
 - (c) Source of asset data;
 - (d) Asset valuation bases; and
 - (e) Documentation of assumptions made for:
 - (i) Default costs;
 - (ii) Bond call function;
 - (iii) Mortgage prepayment function;

- (iv) Determining market value for assets sold due to disinvestment strategy; and
- (v) Determining yield on assets acquired through the investment strategy.

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.

- (3) For the analysis basis:
 - (a) Methodology;
 - (b) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
 - (c) 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) 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) Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;
 - (4) Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis;
 - (5) Summary of results; and
 - (6) Conclusions
- C. Details of the Regulatory Asset Adequacy Issues Summary
- (1) The regulatory asset adequacy issues summary shall include:
 - (a) 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.
 - (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 subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

- (d) Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves 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 of the scenarios tested; and
 - (f) 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.
- (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.

D. Conformity to Standards of Practice. The memorandum shall include a statement:

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

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

An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used 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.

The amount of the assets used for the AVR shall 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.

Drafting Note: It has been suggested by some that, if the required interest rate scenarios are removed, they should be restored in five years if the commissioner is not satisfied with the scenarios upon which the asset adequacy opinion is based.

F. 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.

Chronological Summary of Action (all references are to the Proceedings of the NAIC).

1991 Proc. II 25, 57, 685, 1202-1215 (adopted).
1992 Proc. I 86, 94, 97, 861, 1391-1392 (adopted technical amendments).
1993 Proc. I 8, 136, 801, 1400-1414, 1457 (amended and reprinted).
2001 Proc. 1st Quarter 918, 999-1015 (amendments adopted later are printed here).
2001 Proc. 2nd Quarter 11, 14, 80, 112 (amended).
2009 Proc. 3rd Quarter, Vol. I, 95, 114-118, 177-202 (amended).

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ACTUARIAL OPINION AND MEMORANDUM REGULATION

This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state’s activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC’s interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

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ACTUARIAL OPINION AND MEMORANDUM REGULATION

KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	ALA. ADMIN. CODE r. 482-1-112 (1996/2010).	
Alaska		ALASKA ADMIN. CODE tit. 3, §§ 21.800 to 21.845 (1996/2011) (previous version of model); BULLETIN 94-11 (1994).
American Samoa	NO CURRENT ACTIVITY	
Arizona	ARIZ. REV. STAT. ANN. §§ 20-696 to 20-696.04 (1996/2009).	
Arkansas		1506 ARK. CODE R. § 64 (1995/2008); 1506 ARK. CODE R. § 64A (2008) (previous version of model).
California		CAL. CODE REGS. tit. 10, §§ 2580.1 to 2580.6 (1995/2005) (previous version of model);
Colorado	3 COLO. CODE REGS § 3-1-8 (1992/2010).	4 COLO. CODE REGS. § 1-1-1 (1972/1991); § 3-1-3 (1991/2007); 3 COLO. CODE REGS. 702-1:1-1-1 (2012).
Connecticut	CONN. AGENCIES REGS. §§ 38a-53-1 to 38a-53-2 (1993/2010).	CONN. AGENCIES REGS. §§ 38a-78-1 to 38a-78-9 (1993/2008) (previous version of model); §§ 38A-459-17 to 38A-459-20 (2002/2008).
Delaware		18 DEL. CODE REGS. §§ 300 to 305 (1994/2009) (previous version of model).
District of Columbia		D.C. MUN. REGS. tit. 26, §§ 2900 to 2999 (1997/2005) (previous version of model).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Florida	FLA. ADMIN. CODE ANN. r. 69O-138.040 to 69O-138.047 (1993/2011).	6 FLA. ADMIN. CODE ANN. r. 69O-149.006 (1985/1994).
Georgia	GA. COMP. R. & REGS. 120-2-74-.01 to 120-2-74-.09 (1997/2011).	
Guam	NO CURRENT ACTIVITY	
Hawaii	HAW. CODE R. §§ 16-169-1 to 16-169-13 (1997/2012).	
Idaho	IDAHO ADMIN. CODE 18.01.77.000 to 18.01.77.024 (1997/2009).	
Illinois		ILL. ADMIN. CODE tit. 50, §§ 1408.10 to 1408.90 (1993/2008) (previous version of model); BULLETIN 2013-20 (2013); BULLETIN 2014-12 (2014).
Indiana	760 IND. ADMIN. CODE 1-57 (1997/2009).	
Iowa	IOWA ADMIN. CODE r. 191-5.34 (1996/2010).	
Kansas		KAN. ADMIN. REGS. § 40-1-44 (1997/2005) (adopts model by reference to dept. policy) (previous version of model).
Kentucky	806 KY. ADMIN. REGS. § 6:100 (1998/2009).	
Louisiana		LA. ADMIN. CODE tit.37, §§ XIII.2101 to XIII.2117 (Regulation No. 47) (1994) (previous version of model).
Maine		ME. REV. STAT. ANN. tit. 24A, § 952A (2003/2010); 02-031 ME. CODE R. § 780 (1995/2007) (previous version of model).
Maryland	MD. CODE REGS. 31.05.01.01 to 31.05.01.10 (1994/2012).	MD. CODE REGS. 31.04.21.01 to 31.04.21.03 (2011).
Massachusetts	211 MASS. CODE REGS. 132.01 to 132.10 (1997/2010).	211 MASS. CODE REGS. 66.90 (2011).
Michigan		MICH. ADMIN. CODE r. 500.881 to 500.997 (2008) (previous version of model).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Minnesota	MINN. R. 2711.0200 to 2711.0230 (2013).	
Mississippi		MISS. CODE R. 2008-3 (2008) (previous version of model).
Missouri		MO. CODE REGS. ANN. tit. 20, §§ 200-1.115 to 200-1.116 (1993/2009) (previous version of model); §§ 200-1.110 to 200-1.115 (1974/2001).
Montana	MONT. ADMIN. R. 6.6.6501 to 6.6.6510 (1996/2011).	MONT. CODE ANN. § 681B-200 (2011).
Nebraska	210 NEB. ADMIN. CODE § 69 (1995/2010).	
Nevada		NEV. ADMIN. CODE §§ 681B.100 to 681B.245 (1996/2013) (previous version of model).
New Hampshire	N.H. CODE ADMIN. R. ANN. 2401.01 to 2401.09 (2005/2011).	
New Jersey	N.J. ADMIN. CODE §§ 11:1-21A.1 to 11:1-21A.9 (1995/2012).	BULLETIN 2009-27 (2009); BULLETIN 2010-20 (2010).
New Mexico		N.M. CODE R. §§ 13.2.6.1 to 13.2.6.11 (1997/2003) (previous version of model).
New York	N.Y. COMP. CODES R. & REGS. tit. 11, §§ 95.1 to 95.12 (Regulation 126) (1994/2014).	Circular Letter 2005-22 (2009); Memorandum 11-18-2010 (2010).
North Carolina		11 N.C. ADMIN. CODE §§ 11F.0301 to 11F.0308 (1994/2004) (previous version of model).
North Dakota		N.D. ADMIN. CODE §§ 45-03-19-01 to 45-03-19-08 (1995/2004) (previous version of model).
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	OHIO ADMIN. CODE § 3901-3-11 (1996/2010).	
Oklahoma	OKLA. ADMIN. CODE §§ 365:10-5-170 to 365:10-5-178 (1998/2009).	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Oregon	OR. ADMIN. R. 836-31-600 to 836-31-690 (1992/2011).	
Pennsylvania		31 PA. CONS. STAT. § 84b (1994/2008) (previous version of model); Notice 10-25-2008 (2008).
Puerto Rico	2011 P.R. LAWS 95 (2011).	
Rhode Island	11 R.I. CODE R. §§ 89-001 to 89-008 (1996/2010).	
South Carolina		S.C. CODE ANN. REGS. 38-9-225 to 38-9-230 (2009); S.C. INS. R 69-52 (1993) (previous version of model).
South Dakota		S.D. ADMIN. R. 20:06:37:01 to 20:06:37:47 (1997/2008) (previous version of model); 20:06:25:02 (1995/2014).
Tennessee	TENN. COMP. R. & REGS. 0780-1-64-.01 to 0780-1-62-.07 (1995/2009).	
Texas	28 TEX. ADMIN. CODE §§ 3.1601 to 3.1608 (1992/2010).	TEX. INS. CODE § 802.002 (2001).
Utah	UTAH ADMIN. CODE r. 590-162-1 to 590-162-10 (1994/2015); BULLETIN 2013-9 (2013).	BULLETIN 2013-1 (2013).
Vermont	VT. ADMIN. CODE 4-3-33:1 to 4-3-33:7 (1997/2010)	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	14 VA. ADMIN. CODE §§ 5-310-10 to 5-310-120 (1992/2015).	
Washington		WASH. ADMIN. CODE 284-07-310 to 284-07-400 (1995) (previous version of model).
West Virginia		W. VA. CODE R. §§ 114-41-1 to 114-41-9 (1996/2009) (previous version of model).
Wisconsin		WIS. ADMIN. CODE INS. §§ 50.60 to 50.80 (1996/2005) (previous version of model).
Wyoming		53 WYO. CODE R. §§ 1 to 9 (1997/2006) (previous version of model).

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- The Life and Health Insurance (Technical) Task Force recommended exposure of this new model. **1991 Proc. Vol. IB 1022.**
- The Executive Committee adopts this model regulation. **1991 Proc. Vol. IIA 59.**
- The Life and Health Insurance (Technical) Task Force recommended adopting this model. **1991 Proc. Vol. IIB 1201.**
- The Technical Task Force recommended adopting amendments to this model. **1992 Vol. IB 1376.**
- The Technical Task Force recommended exposing proposed changes to this model. **1992 Vol. IIB 1050.**
- The Life Insurance (A) Committee adopted the proposed changes to this model to accommodate the change to the Asset Valuation Reserve (AVR) and Interest Maintenance Reserve (IMR). **1993 Proc. Vol. IB 801.**
- The Technical Task Force discussed several proposals concerning amendments to this model. **1997 Proc. 3rd Quarter Vol. II 1795 – 1976.**
- The Technical Task Force discussed the draft principles for modifying this regulation. **1997 Proc. 3rd Quarter Vol. II 1803.**
- The Technical Task Force appointed a Subgroup to discuss possible revisions to this model. **1997 Proc. 4th Quarter 1092.**
- The Task Force briefly reviewed the major elements in the proposed revisions to this model. **2000 Proc. 2nd Quarter 1098.**
- The Task Force adopted the December 2000 draft of this model. **2001 Proc. 1st Quarter 918.**
- The Executive Committee adopted amendments to this model during the 2001 Summer National Meeting. The amendments included deleting Section 7, thereby requiring all companies to perform an asset adequacy analysis. This model gives the commissioner flexibility in accepting actuarial opinions based on the laws of a company's state of domicile. Another set of amendments requires an asset adequacy issues summary. **2001 Proc. 2nd Quarter 11.**
- The Plenary adopted the report of the Executive Committee including the adoption of this model regulation. **2001 Proc. 2nd Quarter 14.**
- The Life and Health Insurance (A) Committee adopted this model during the 2001 Summer National Meeting. Prior to adopting the model, the Committee listened to comments from interested parties. **2001 Proc. 2nd Quarter 79-80.**
- The Health Insurance and Managed Care (B) Committee adopted this model during the 2001 Summer National Meeting. Prior to adopting the model, the Committee discussed two issues of concern: (1) the new draft eliminated the exemption for what is called the Section 7 option for small companies; and (2) companies would be able to file a state of domicile opinion in a foreign jurisdiction. **2001 Proc. 2nd Quarter 112.**
- The Task Force appointed a joint Capital Adequacy (E) Task Force/Life and Health Actuarial Task Force Subgroup. The Task Force also discussed the proposals in the 2008 Capital and Surplus Relief package that the Task Force recommended for consideration. The Task Force released a draft of this model related to these proposals. **2009 Proc. 1st Quarter 6-4.**
- The joint Executive Committee/Plenary adopted amendments to this model during the 2009 Fall National Meeting. **2009 Proc. 3rd Quarter.**

Section 1. Purpose

Section 2. Authority

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Section 3. Scope

The regulators discussed an interested party letter that requested a detailed list of the type of products that would be included in the table in (3)(a). **1999 Proc. 2nd Quarter 931.**

Section 4. Definitions

The Subgroup discussed an appropriate definition for gross premium reserves. **1998 Proc. 2nd Quarter Vol. II 1068 – 1069.**

A regulator stated that it was important to be clear that the definition of “adequate provision” would apply to both Section 7 and Section 8 opinions. **1998 Proc. 2nd Quarter Vol. II 1068 – 1069.**

An interested party suggested excluding policies where the premium is less than \$5,000 from the definition of “single-premium life insurance.” **1998 Proc. 2nd Quarter Vol. II 1068 – 1069.**

Section 5. General Requirements

The Technical Task Force discussed three decisions reached by the Subgroup: (1) Companies should be allowed the option of continuing to file reserves on the current basis; (2) Companies should also be allowed the option of filing reserves according to the domiciliary state’s standards, provided they also file reserves consistent with “benchmark” standards; and (3) The benchmark should be as consistent as possible with the Codification standards. **1998 Proc. 1st Quarter 1001 -1003.**

The Subgroup discussed whether there was a need for a benchmark reserve calculation, or if other tools could be developed to determine when a state should request that reserves be calculated according to its standards. **1998 Proc. 1st Quarter 1103 – 1104.**

The Technical Task Force discussed a proposal for an alternative to the benchmark standard. **1998 Proc. 2nd Quarter Vol. II 1051 – 1052.**

The Subgroup discussed a memo relative to the proposed benchmark reserve standard and reviewed an earlier memo on a gross premium valuation test. **1998 Proc. 2nd Quarter Vol. II 1970.**

The Subgroup discussed a “benchmark” that encompassed two options. **1998 Proc. 2nd Quarter Vol. II 1068 – 1069.**

The Subgroup discussed how to perform a gross premium valuation for products with non-guaranteed elements. **1998 Proc. 2nd Quarter 1068 – 1069.**

The Technical Task Force discussed the idea of a risk containment reserve analysis and reviewed the various proposals for modifications to the “state of filing” requirement. **1998 4th Quarter Vol. II 978 – 979.**

The Technical Task Force discussed the project that addresses the filing of an opinion based on the state of filing. Several regulators suggested a compromise. **1999 Proc. 1st Quarter 787 – 788.**

The Actuarial Opinion and Memorandum Regulation Subgroup discussed the “state of domicile + benchmark approach.” The Subgroup also discussed why the Life and Health Actuarial Task Force could not change the Standard Valuation Law in lieu of changing this model. **1999 Proc. 1st Quarter 861 – 862.**

The Task Force discussed whether states actually conduct substantive reviews of the reserves of non-domestic insurers. **1999 Proc. 2nd Quarter 931.**

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Section 6. Statement of Actuarial Opinion Based On Asset Adequacy Analysis

The Subgroup discussed changes to Sections 6B and 6C. **1998 Proc. 2nd Quarter Vol. II 1068 – 1069.**

The Technical Task Force added the language “in excess of \$10,000 face amount” after “single premium life insurance.” **1999 Proc. 3rd Quarter Vol. II 1450.**

The Technical Task Force changed “interest-indexed products” to “indexed products (including interest-indexed, equity-indexed, etc.).” **1999 Proc. 3rd Quarter Vol. II 1450.**

The Technical Task Force changed the “Company Categories” and the factors in the “Exemption Eligibility Tests.” **1999 Proc. 3rd Quarter Vol. II 1450.**

The Life and Health Actuarial (Technical) Task Force agreed to delete Section 6. **1999 Proc. 4th Quarter Vol. II 1441.**

The Task Force included page and line numbers in the reference to interest maintenance reserve (IMR) in the box referencing both the separate account and the general account. **2000 Proc. 4th Quarter 992.**

The reference in the box to “Life Insurance Premiums and Annuity Considerations Deferred and Uncollected” was changed to “Net Deferred and Uncollected Premium.” **2000 Proc. 4th Quarter 992.**

The reference in the table to “Page 3, Lines 1, 2, 3.1, 3.2, 3.3” was changed to “Page 3, Line 1, 2, 3.1, 3.2, 3.3.” **2000 Proc. 4th Quarter 992.**

The Task Force accepted revisions to Section 6F for Subsections 1(a) and 1(c). The Task Force did not reach a consensus relative to Subsection 6F(1)(b). **2000 Proc. 4th Quarter 993.**

Section 7. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

The Subgroup discussed how the requirement to demonstrate adequacy under moderately adverse conditions would differ between Sections 7 and 8. **1998 Proc. 1st Quarter 1103 – 1104.**

The Subgroup addressed the proposed liability categories for the Section 8 exemption tests. **1998 Proc. 2nd Quarter 1068 – 1069.**

The Technical Task Force discussed the revisions to this model as to the consistency of the various proposals with the Standard Valuation Law. **1998 Proc. 3rd Quarter 920.**

The Subgroup discussed a July 23, 1998 memo that outlined alternatives to the current Sections 7 and 8. **1998 Proc. 3rd Quarter 1039.**

The Subgroup summarized the decisions which had previously been reached relative to the gross premium valuation. The Subgroup came to a conclusion on several points regarding Sections 7 and 8. **1998 Proc. 1043 – 1044.**

A regulator reminded the Subgroup that it recommended that the distinctions between Section 7 and section 8 opinions be eliminated, and that a new actuarial standard of practice be developed to implement that proposal. The Subgroup discussed the impact of that proposal. **1998 Proc. 4th Quarter Vol. II 1180.**

The Technical Task Force amended the language in Subsection 7B. **1999 Proc. 3rd Quarter Vol. II. 1450 – 1451.**

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Section 7 (cont.)

The Technical Task Force agreed to add an additional item relating to derivatives to the Section 8 Exemption Text. **1999 Proc. 3rd Quarter Vol. II 1451.**

The Technical Task Force discussed the changes relative to two issues: (1) the restructuring of the NAIC Financial Examiner Team, and (2) “state of issue” vs. “state of filing.” **1999 Proc. 3rd Quarter Vol. II 1204.**

The Technical Task Force agreed to eliminate Section 7. **1999 Proc. 4th Quarter Vol. II 1441.**

The Technical Task Force eliminated the language in Section 8F up to “the requirements of this Section.” The Task Force also agreed to broaden the subsection beyond asset-oriented information. **1999 Proc. 4th Quarter Vol. II 1441.**

The Technical Task Force replaced the language in Section 8G with a submission from an interested party. **1999 Proc. 4th Quarter Vol. II 1442.**

The Technical Task Force changed Subsection 9B(4) to read “material changes.” **1999 Proc. 4th Quarter Vol. II 1442.**

The Technical Task Force changed the heading of Subsection 9B(1)(g) to read “Documentation of assumptions to test reserves for the following.” **1999 Proc. 4th Quarter Vol. II 1442.**

The Technical Task Force rewrote Subsection 9C. **1999 Proc. 4th Quarter Vol. II 1442.**

The Technical Task Force changed the language in Subsection 10C to read “an appropriate allocation of assets in an amount no greater than the interest maintenance reserve (IMR)...” **1999 Proc. 4th Quarter Vol. II 1442.**

An interested party outlined their opposition to eliminating Section 7. The interested party stated that there was no demonstration that there was an actual problem that the additional testing would resolve. Another interested party stated that there was a split among its members on this issue. The Task Force released for comment a letter to the states providing guidance on the implications of the modifications to the NAIC Examiner Team. **2000 Proc. 1st Quarter 1054.**

The Task Force discussed concerns over eliminating Section 7. Of particular concern was expressed relative to the expense small companies would incur in performing asset adequacy analyses. **2000 Proc. 3rd Quarter 1072.**

The Task Force deleted the first drafting note in Section 7E. **2000 Proc. 4th Quarter 992.**

The Task Force added a drafting note in Section 7E which reads: “It has been suggested by some that, if the required interest rate scenarios are removed, they should be restored in five years if the commissioner is not satisfied with the scenarios upon which the asset adequacy opinion is based.” **2000 Proc. 4th Quarter 992.**

The Task Force received a comment from an interested party that objected to eliminating Section 7. **2000 Proc. 4th Quarter 993.**

Chronological Summary of Action

1991: Model adopted.

1992: Adopted technical amendments.

1993: Model amended.

June 2001: Model amended.

September 2009: Model amended.