

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.830a Life insurance; actuarial opinion; form; submission to director; liability of actuary; "qualified actuary" defined; limitation; public hearing; company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts; actuarial opinion; requirements; definitions.

Sec. 830a. (1) A life insurance company doing business in this state shall annually submit to the director the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The actuarial opinion required by this section must be submitted in a form prescribed by the director and may include any other items that the director considers necessary.

(2) A life insurance company, except as exempted by or under rule, shall also annually include in the opinion required by subsection (1) an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule, when considered in light of the assets held by the company with respect to the 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 for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts. By order, the director may provide for a transition period for establishing any higher reserves that the qualified actuary may consider necessary to render the opinion required by this subsection.

(3) All of the following apply to an opinion required by subsection (2):

(a) A memorandum must be prepared to support each actuarial opinion that is in form and substance acceptable to the director.

(b) If the insurance company does not provide a supporting memorandum within the period of time requested by the director or the director determines that the supporting memorandum provided by the insurer does not meet the standards prescribed by applicable laws or rules or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare a supporting memorandum as is required by the director.

(4) All of the following apply to an opinion required by this section:

(a) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994.

(b) The opinion applies to all business in force including individual and group disability insurance plans in form and substance acceptable to the director.

(c) The opinion must be based on standards as the director may prescribe by rule.

(d) For an opinion required to be submitted by a foreign or alien insurer, the director may accept the opinion filed by the foreign or alien insurer with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) A memorandum in support of the opinion, and any other material provided by the insurer to the director in connection with it, shall be kept confidential by the director, shall not be made public, and is not subject to subpoena, other than for the purpose of defending an action seeking damages from a person by reason of an action required by this section or by rules promulgated under this section. However, the director may release the memorandum or other material in any of the following instances:

(i) With the written consent of the insurer.

(ii) To the American academy of actuaries if the memorandum or other material is required for the purpose of professional disciplinary proceedings and the request describes procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material.

(iii) If any portion of the confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state insurance regulatory agency or is released by the insurer to the news media. A confidential memorandum cited as described under this subparagraph is not confidential.

(5) Except for fraud or willful misconduct, the qualified actuary is not liable for damages to a person other than the insurance company and the director for an act, error, omission, decision, or conduct with respect to the actuary's opinion. Disciplinary action by the director against the insurer or the qualified actuary shall be defined in rules by the director.

(6) For purposes of this section, "qualified actuary" means a member of either the american academy of

actuaries or the society of actuaries who also meets any other criteria established by the director by rule.

(7) The director shall not accept as a qualified actuary or accept an actuarial opinion prepared in whole or in part by an individual who has done any of the following:

(a) Been convicted of fraud, bribery, a violation of 18 USC 1961 to 1968, or any dishonest conduct or practices under federal or state law.

(b) Violated the insurance laws of this state with respect to any previous reports submitted under this section.

(c) Did not detect or disclose material information in 1 or more previous reports filed under this section.

(8) The director may hold a public hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to determine if an actuary is qualified. After considering the evidence presented, the director may find that the actuary is not qualified for purposes of expressing his or her opinion on reserves and related actuarial items as required by this section, and may require the insurer to replace the actuary with another actuary.

(9) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the director shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual must provide the specifics of this opinion, including any items considered necessary to its scope.

(10) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the director, except as exempted in the valuation manual, shall also annually include in the opinion required by subsection (9) an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, 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 provisions for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(11) Both of the following apply to an opinion required under subsection (10):

(a) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the director, shall be prepared to support each actuarial opinion.

(b) If an insurance company does not provide a supporting memorandum at the request of the director within a period specified in the valuation manual or the director determines that the supporting memorandum provided by the insurance company does not meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director.

(12) All of the following apply to an opinion required under subsection (9) or (10):

(a) The opinion must be in form and substance as specified in the valuation manual and acceptable to the director.

(b) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the valuation manual.

(c) The opinion applies to all policies and contracts described in subsection (10), and to other actuarial liabilities as may be specified in the valuation manual.

(d) The opinion must be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(e) For an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by the foreign or alien company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(f) Except for fraud or willful misconduct, the appointed actuary is not liable for damages to a person other than the insurance company and the director for an act, error, omission, or decision, or conduct, with respect to the appointed actuary's opinion.

(g) The director shall determine by regulation disciplinary action against the company or the appointed actuary.

(13) As used in this section:

(a) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the

valuation manual.

(b) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required under subsection (9) or (10).

(c) "Company" means an entity that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least 1 policy in force or on claim or that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(d) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(e) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(f) "NAIC" means the national association of insurance commissioners.

(g) "Qualified actuary" means an individual who is qualified to sign an applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing statements of actuarial opinion and who meets the requirements specified in the valuation manual.

(h) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in section 836b.

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