

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Insurance Department

(2) I.D. Number (Governor's Office Use)

11-235

IRRC Number: 2685

(3) Short Title

Actuarial Opinion and Memorandum

(4) PA Code Cite

31 Pa. Code, Chapter 84b, §§84b.1-84b.11

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator,
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429
Secondary Contact:

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Final form Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of the rulemaking is to update Chapter 84b to include amendments made by the National Association of Insurance Commissioners ("NAIC") to Model Regulation 822, entitled "Actuarial Opinion and Memorandum Regulation." That regulation requires all life insurance companies and fraternal benefit societies to submit actuarial opinions based on an asset adequacy analysis, commonly known as "Section 8 opinions." The regulation also requires insurers to submit a regulatory asset adequacy issues summary each year. Several of these changes are required for the Insurance Department to maintain accreditation by the NAIC beginning in 2009.

(9) State the statutory authority for the regulation and any relevant state or federal court decision.

Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) and Section 301 of The Insurance Department Act ("Act") (40 P.S. § 71).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No. However, several of these changes are required for the Insurance Department to maintain accreditation by the NAIC beginning in 2009.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Since the rulemaking concerns the solvency requirements applied to insurers, the public will benefit from a financially sound insurance industry that has the ability to fulfill its contractual obligations under life insurance policies.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

If an insurer was not required to maintain adequate reserves, there would be the risk that the insurer would not have sufficient funds to pay future benefits to policyholders.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Residents of this Commonwealth who purchase life insurance contracts will benefit from the rulemaking. The amendments to Chapter 84b will strengthen the financial soundness of insurers, and the ability of the insurers to fulfill contractual obligations.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The amendment to Chapter 84b will not materially affect companies that previously prepared opinions based on asset adequacy analysis. The amendment will impact companies previously exempt from submitting an opinion based on asset adequacy analysis.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All life insurance companies and fraternal benefit societies doing business in the Commonwealth.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Department has communicated with various members of the insurance industry and the NAIC in the drafting of this rulemaking. The rulemaking was published in the Pennsylvania Bulletin with a 30-day public comment period. Comments were taken into consideration in the review of the final form rulemaking.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The rulemaking may impose additional costs on insurers that are currently exempt from submitting an actuarial opinion based on an asset adequacy analysis. The amount of the additional cost will depend on the type and extent of the asset adequacy analysis that the insurer's actuary believes is necessary to submit an actuarial opinion. The rulemaking provides the actuary flexibility to use professional judgment in performing the analysis.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no costs or savings to local governments associated with this rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There are no material costs or savings to state government associated with this rulemaking.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.
N/A.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No costs or adverse effects are anticipated as a result of this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No other nonregulatory alternatives were considered because the standards are currently established by regulation. Therefore, amendment to Chapter 84b is necessary to revise the requirements for statements of actuarial opinions and supporting memoranda and nonregulatory alternatives are not feasible.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered. The amendment to Chapter 84b is necessary to revise the standards of the chapter in accordance with standards promulgated by the NAIC.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or final form regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are anticipated.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Insurers will be required to submit a regulatory asset adequacy issues summary each year. Some companies that previously were exempt will now have to prepare an actuarial memorandum, but are not required to submit it unless requested.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The rulemaking will have no effect on special needs of affected parties.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rulemaking will take effect upon approval of the final form regulation by the Legislative Standing Committees, the Independent Regulatory Review Commission, the Office of the Attorney General, and upon final publication in the *Pennsylvania Bulletin* with an effective date of January 1, 2009.

(31) Provide the schedule for continual review of the regulation.

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

By _____
(Deputy Attorney General)

Date of Approval

→ Check if applicable.
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-235

DATE OF ADOPTION: _____

BY: _____

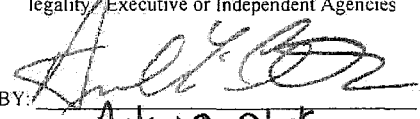


Joel Ario
Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

Copy below is hereby approved as to form and
legality. Executive or Independent Agencies

BY: _____



Andrew C. Clark

AUG 14 2008

DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)
(~~CHIEF COUNSEL, INDEPENDENT AGENCY~~)
(~~STRIKE INAPPLICABLE TITLE~~)

→ Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

NOTICE OF FINAL FORM RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 84b, Sections 84b.1-84b.11

ACTUARIAL OPINION AND MEMORANDUM

PREAMBLE

The Insurance Department (Department) hereby amends Chapter 84b of the Department's regulations (31 Pa. Code Ch. 84b) (relating to Actuarial Opinion and Memorandum) to read as set forth in Annex A.

Statutory Authority

The final form regulation is adopted under the authority of Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) and Section 301 of The Insurance Department Act ("Act") (40 P.S. §§ 71).

Comments and Response

Notice of proposed rulemaking was published at 38 Pa.B. 1949 (April 26, 2008) with a 30-day comment period. During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department. During the 30-day comment period, comments were received from Sam Marshall of the Insurance Federation of Pennsylvania, Inc. ("IFP"). The following is a response to the comments received.

The IFP indicated that it generally supports the regulation as consistent with the NAIC's model regulation and submitted two editorial comments. First, the IFP suggested that the references to Exhibits 8 through 11 be updated to match the NAIC numbering. Because the IFP's suggestion pertained to portions of the regulation that were bracketed to be deleted by the Department, the Department determined that the Exhibits need not be renumbered.

The IFP also suggested that the regulation be clarified so that the Regulatory Asset Adequacy Issues Summary is required only upon the Commissioner's request. The Department does not see a need to clarify this requirement, in that it is consistent with the NAIC model and Regulatory Asset Adequacy Issues Summary (RAAIS) should be filed routinely by domestic life insurance companies and fraternal benefit societies.

Affected Parties

The proposed rulemaking will apply to life insurance companies and fraternal benefit societies doing business in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department as a result of the adoption of Chapter 84b. As part of its solvency monitoring responsibilities, the Department currently reviews statements of actuarial opinion and supporting memoranda. Thus, this rulemaking will not require any additional staff time or resources to perform the analysis.

General Public

Since the rulemaking concerns the solvency requirements applied to insurers, the public will benefit from a financially sound insurance industry that has the ability to fulfill its contractual obligations under life insurance policies.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions. However, because the rulemaking promotes stability in the Commonwealth's insurance industry, political subdivisions' tax revenues would benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment and would also increase incentives for insurers to market new insurance products in this Commonwealth.

Private Sector

The rulemaking may impose additional costs on insurers that are currently exempt from submitting an actuarial opinion based on an asset adequacy analysis. The amount of the additional cost will depend on the type and extent of the asset adequacy analysis that the insurer's actuary believes is necessary to submit an actuarial opinion. The rulemaking provides the actuary flexibility to use professional judgment in performing the analysis.

Paperwork

The adoption of this rulemaking would not impose additional paperwork on the Department. Insurers that currently do not prepare an actuarial memorandum because the actuarial opinion is not based on an asset adequacy analysis will be required to prepare an actuarial memorandum under the rulemaking. In addition, insurers are required under the rulemaking to submit a regulatory asset adequacy issues summary each year. The amount of additional paperwork in preparing the memorandum and summary will depend on the type and extent of the asset adequacy analysis performed.

Effectiveness/Sunset Date

The rulemaking will become effective January 1, 2009. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact person

Any questions, regarding this regulation, should be directed to Peter J. Salvatore, Regulatory Coordinator, Bureau of Administration, 1326 Strawberry Square, Harrisburg, PA 17120, phone (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Regulatory review

Under section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), the agency submitted a copy of this regulation on April 16, 2008 to the Independent Regulatory Review Commission and to the Chairmen of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted regulation, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final form regulation, the Department considered all comments received from IRRC, the Committees and the public. This final form regulation was (deemed) approved by the House and Senate Committees on _____. In accordance with section 5a(d) of the Regulatory Review Act (71 P.S. §745.5a(d)), IRRC met on _____ and (deemed) approved the regulation in accordance with section 5a(e) of the Regulatory Review Act (71 P.S. §745.5a(e)).

Findings

The Commissioner finds that:

- (1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No240) (45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 31 Pa. Code, are amended by adopting §§84b.1-84b.11, to read as set forth in Annex A.
- (b) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.
- (c) The Commissioner shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The regulation adopted by this order shall take effect January 1, 2009.

Joel Ario
Insurance Commissioner

**CONTINUATION SHEET FOR FILING DOCUMENTS
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Pursuant to Commonwealth Documents Law**

ANNEX A

**TITLE 31. INSURANCE. PART VI. LIFE INSURANCE. CHAPTER 84b. ACTUARIAL
OPINION AND MEMORANDUM.**

Sec.

84b.1	Purpose.
84b.2.	Applicability.
84b.3.	Scope.
84b.4.	Definitions.
84b.5.	General requirements.
84b.6.	[Required opinions.] <u>Reserved.</u>
84b.7.	[Statement of actuarial opinion not including an asset adequacy analysis.] <u>Reserved.</u>
84b.8.	Statement of actuarial opinion based on an asset adequacy analysis.
84b.9.	Description of actuarial memorandum including an asset adequacy analysis and <u>regulatory asset adequacy issues summary.</u>
84b.10.	[Additional considerations for analysis.] <u>Reserved.</u>
84b.11.	Insurance company disciplinary action.

§ 84b.1. Purpose.

The purpose of this chapter is to promulgate [standards] requirements for statements of actuarial opinions and for supporting memoranda as required by section 301[(f)](g) of the act (40 P. S. § 71[(f)](g)) and to provide guidance on the meaning of adequacy of reserves.

§ 84b.2. Applicability.

This chapter applies to life insurance companies and fraternal benefit societies doing business in this Commonwealth. This chapter 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 relevant actuarial standards of practice. However, the Commissioner shall have the authority to require 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.

§ 84b.3. Scope.

[(a) *Types of opinions.* Except with respect to companies which are exempted under § 84b.6 (relating to required opinions), a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis), and a memorandum in support thereof in accordance with § 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis) shall be required each year. A company so exempted shall file a statement of actuarial opinion under § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis).

(b) *Filing upon request.* The Commissioner may require a company otherwise exempt under this chapter to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with §§ 84b.8 and 84b.9 if, in the opinion of the Commissioner, an asset adequacy analysis is necessary with respect to the company. In forming the opinion, the Commissioner will take into consideration issues such as the nature of the business insured, the type of assets owned by the company and the company's financial ratios determined in accordance with § 84b.6(c).]

A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis), and a memorandum in support thereof in accordance with § 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary) shall be required each year.

§ 84b.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Department Act of 1921 (40 P. S. § § 1—297.4).

Actuarial opinion—[With respect to § § 84b.8 , 84b.9 and 84b.10 (relating to statement of actuarial opinion based on asset adequacy analysis; description of actuarial memorandum including an asset adequacy analysis; and additional considerations for analysis), [t]The opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy [test] analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on an asset adequacy analysis) and with applicable actuarial standards. [With respect to § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis), the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with § 84b.7 and with actuarial standards which specifically relate to this opinion.]

Actuarial Standards Board—The board established by the American Academy of Actuaries, or a successor thereto, to develop and promulgate standards of actuarial practice.

Annual statement—The statement required by section 320 of the Insurance Company Law of 1921 (40 P. S. § 443) to be filed by a life insurance company with the Commissioner annually and the statement required by section 602 of The Fraternal Benefit Societies Code (40 P. S. § 1142-602) to be filed by a fraternal benefit society with the Commissioner annually.

Appointed actuary—A qualified actuary who is appointed or retained either directly by the board of directors or by the authority of the board of directors through an executive officer, provided that the executive officer is not the qualified actuary of the company, to prepare the statement of actuarial opinion and supporting memorandum as required by § 301[(f)](g) of the act (40 P. S. § 71[(f)](g)).

Asset adequacy analysis—An analysis that meets the standards and other requirements referred to in § 84b.5(d) (relating to general requirements). [It may take many forms, including cash flow testing, sensitivity testing or applications of risk theory.]

Commissioner—The Insurance Commissioner of the Commonwealth.

Company—A life insurance company or fraternal benefit society subject to this chapter.

Department—The Insurance Department of the Commonwealth.

[*First priority company*—A company designated by the NAIC as a company which should be assigned a first priority in the scheduling of a state's company financial reviews.]

NAIC—National Association of Insurance Commissioners, or a successor thereto.

[*Noninvestment grade bonds*—Bonds designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office, or a successor thereto.]

Policy—When used with respect to a fraternal benefit society, a certificate.

Qualified actuary—An individual who meets the requirements in § 84b.5(b).

[*Second priority company*—A company designated by the NAIC as a company which should be assigned a second priority in the scheduling of a state’s company financial reviews.]

§ 84b.5. General requirements.

(a) *Submission of statement of actuarial opinion.*

(1) A company shall include on or attach to Page 1 of the annual statement for each year [beginning with 1994], 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 § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis). [A company exempted under § 84b.6 (relating to required opinions) from submitting a statement of actuarial opinion in accordance with § 84b.8 shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis).]

(2) [If in the previous year a company provided a statement of actuarial opinion in accordance with § 84b.7, and in the current year fails to meet the exemption criteria of § 84b.6(c)(1), (2) or (5), the statement of actuarial opinion in accordance with § 84b.8 is not

required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with § 84b.7 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with § 84b.8.

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

(4)] 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 requirements.* 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 these 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 done one or more of the following:

(i) Violated any provision of, or any obligation imposed by, the insurance laws or other laws in the course of the individual's dealings as a qualified actuary.

(ii) Been found guilty of fraudulent or dishonest practices.

(iii) Demonstrated incompetency, lack of cooperation or untrustworthiness to act as a qualified actuary.

(iv) Submitted to the Commissioner during the past [5] five years, under this chapter, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this chapter including standards set by the Actuarial Standards Board.

(v) Resigned or been removed as an actuary within the past [5] 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.

(5) Has not failed to notify the Commissioner of any action taken by [a commissioner or superintendent] the insurance regulatory authority of another state similar to that under paragraph (4) above.

(c) *Appointed actuary notification.* The company shall give the Commissioner written notice of the name, title—and, in the case of a consulting actuary, the name of the firm—and the 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 in subsection (b). Once notice is furnished, no further notice is required with respect to this person, but the company shall give the Commissioner written notice if the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements in subsection (b). The notice of the appointment or termination of the appointment shall be provided to the Commissioner by [January 30, 1995, or] the date of the appointment or termination of the appointment [unless previously provided to the Commissioner]. The notice of termination shall disclose the reasons for termination. Additionally, the terminated actuary shall furnish to the Commissioner and to the company a description of valuation reserve issues that the actuary considered as material at the time of termination or a statement that no material issues exist. The description shall include issues concerning valuation requirements, reserve adequacy, asset adequacy analysis assumptions or methodology and internal controls on the valuation system.

(d) *Standards for asset adequacy analysis.* The asset adequacy analysis required by this chapter shall:

(1) Conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and to additional standards under this chapter, which standards are to form the basis of the statement of actuarial opinion in accordance with § 84b.8.

(2) Be based on methods of analysis deemed appropriate for these purposes by the Actuarial Standards Board.

(e) *Liabilities to be covered.*

(1) Under the authority of section 301[(f)(4)](g)(5)(B) of the act (40 P. S. § 71[(f)(4)](g)(5)(B)), the statement of actuarial opinion shall apply to reserves and related actuarial items associated with all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued (for example, [reserves of Exhibits 8, 9 and 10, and claim liabilities of Exhibit 11, Part I of the annual statement and equivalent items of the separate account annual statement or statements]) aggregate reserve for insurance and annuity contracts, liability for deposit-type contracts, liability for contract claims, 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 in sections 301(b), (c) and (e), 301.1(a) and 303 of the act (40 P. S. §§ 71(b), (c), (e), 71.1(a) and 73), the company shall establish such additional reserve.

(3) Additional reserves established under paragraph (2) and deemed not necessary in subsequent years may be released. Amounts released shall be disclosed in the actuarial opinion for the applicable year. The rationale for the release of reserves shall be described in the memorandum. The release of these reserves would not be deemed an adoption of a lower standard of valuation.

§ 84b.6. [Required opinions.]

(a) *General.* In accordance with section 301(f)(1) and (2) of the act (40 P. S. § 71(f)(1) and (2)), every company doing business in this Commonwealth shall annually submit the

opinion of an appointed actuary as provided for by this chapter. The type of opinion submitted shall be determined by the provisions set forth in this section and shall be in accordance with the applicable provisions in this chapter.

(b) *Company categories.* For purposes of this chapter, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:

(1) Category A consists of companies whose admitted assets do not exceed \$20 million.

(2) Category B consists of companies whose admitted assets exceed \$20 million but do not exceed \$100 million.

(3) Category C consists of companies whose admitted assets exceed \$100 million but do not exceed \$500 million.

(4) Category D consists of companies whose admitted assets exceed \$500 million.

(c) *Exemption eligibility tests.*

(1) A Category A company that, for any year beginning with 1994, meets the criteria in subparagraphs (i)—(iv) shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis) for the year in which these criteria are met. The ratios in subparagraphs (i)—(iii) shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

(i) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.

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

(iii) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than .50.

(iv) The Examiner Team for the NAIC has not designated the company as a “first priority company” in any of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or a “second priority company” in each of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the “first priority company” or “second priority company” status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force, or a successor thereto, and the NAIC Staff and Support Office.

(2) A Category B company that, for any year beginning with 1994, meets all of the criteria in subparagraphs (i)—(iv) shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with § 84b.8 for the year in which the criteria are met. The ratios in subparagraphs (i)—(iii) shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

(i) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.

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

(iii) The ratio of the book value of the noninvestment grade bonds to the sum of capital and surplus is less than .50.

(iv) The Examiner Team for the NAIC has not designated the company as a “first priority company” in any of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or a “second priority company” in each of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the “first priority company” or “second priority company” status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force, or a successor thereto, and the NAIC Staff and Support Office.

(3) A Category A or Category B company that meets the criteria in subsection (c)(1) or (2), whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with § 84b.8 unless the Commissioner specifically indicates to the company that the exemption is not to be taken as provided by § 84b.3(c) (relating to scope).

(4) A Category A or Category B company that, for any year beginning with 1994, is not exempted under subsection (c)(3) shall be required to submit a statement of actuarial opinion in accordance with § 84b.8 for the year for which it is not exempt.

(5) A Category C company that, after submitting an opinion in accordance with § 84b.8 to the Commissioner or to the commissioner of another state, meets the criteria in subparagraphs (i)—(iv) is not required, unless required in accordance with paragraph (6), to submit a statement of actuarial opinion in accordance with § 84b.8 more frequently than every third year. The initial 3-year period begins with the earlier of the submission of the opinion in accordance with § 84b.8 to either the Commissioner of the Commonwealth or to the commissioner of another state. A Category C company which fails to meet the following criteria for any year shall submit a statement of actuarial opinion in accordance with § 84b.8 for that year. The ratios in subparagraphs (i)—(iii) shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

(i) The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05.

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

(iii) The ratio of the book value of the noninvestment grade bonds to the sum of the capital and surplus is less than .50.

(iv) The Examiner Team for the NAIC has not designated the company as a “first priority company” in any of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or a “second priority company” in each of the 2 calendar years preceding the calendar year for which the actuarial opinion is

applicable, or the company has resolved the “first priority company” or “second priority company” status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force, or a successor thereto, and the NAIC Staff and Support Office.

(6) A company which is not required by this section to submit a statement of actuarial opinion in accordance with § 84b.8 for any year shall submit a statement of actuarial opinion in accordance with § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis) for that year unless as provided for by § 84b.3(c) the Commissioner requires a statement of actuarial opinion in accordance with § 84b.8.

(d) *Large companies.* Every Category D company shall submit a statement of actuarial opinion in accordance with § 84b.8 for each year beginning with 1994.] **Reserved.**

§ 84b.7. [Statement of actuarial opinion not including an asset adequacy analysis.

(a) *General description.* The statement of actuarial opinion required by this section shall consist of:

(1) A paragraph identifying the appointed actuary and the appointed actuary’s qualifications.

(2) A regulatory authority paragraph stating that the company is exempt under this chapter from submitting a statement of actuarial opinion based on an asset adequacy

analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with this section.

(3) A scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work.

(4) An opinion paragraph expressing the appointed actuary's opinion as required by section 301(f)(1) of the act (40 P.S. § 71(f)(1)).

(b) *Recommended language.* The following language is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this section. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses the individual's professional judgment. The opinion shall retain the pertinent aspects of the language provided in this section.

(1) The opening paragraph shall indicate the appointed actuary's relationship to the company and the individual's qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion shall contain a statement such as follows:

"I, (name of actuary), am (title) of (name of company) and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Commissioner dated (date). I meet the Academy qualification standards for rendering

the opinion and am familiar with the valuation requirements applicable to life and health companies.”

(ii) For a consulting actuary, the opening paragraph of the actuarial opinion shall contain a statement such as follows:

“I, (name and title of actuary), 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 (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 regulatory authority paragraph shall contain a statement such as follows:

“Said company is exempt pursuant to the Actuarial Opinion and Memorandum regulation of the Pennsylvania Insurance Department from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with Section 84b.7 of the Actuarial Opinion and Memorandum regulation of Pennsylvania.”

(3) The scope paragraph shall meet the following requirements:

(i) Shall contain a statement such as follows:

“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, (year).”

(ii) Shall list items and amounts with respect to which the appointed actuary is expressing an opinion. The list shall include but not be limited to:

(A) Aggregate reserve for policies and contracts included in Exhibit 8 of the annual statement.

(B) Aggregate reserve for policies and contracts included in Exhibit 9 of the annual statement.

(C) Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10 of the annual statement.

(D) Policy and contract claims—liability end of current year included in Exhibit 11, Part I of the annual statement.

(iii) Shall include, if the appointed actuary has examined the underlying records, in addition to the statement required by paragraph (3)(i), a statement such as follows:

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

(iv) Shall include, if the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, in addition to the statement required by paragraph (3)(i), a statement such as either (A) or (B) as follows:

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

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

The statement of the person certifying shall follow the form indicated by paragraph (8).

(4) The opinion paragraph shall include a statement such as follows:

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

Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under Section 84b.7 of the Actuarial Opinion and Memorandum regulation of Pennsylvania;

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;

Meet the requirements of the valuation law and regulations of the state of (state of domicile) and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

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

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

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

(5) The concluding paragraph shall document the eligibility for the company to provide an opinion as provided by this section. It shall include a statement such as follows:

“This opinion is provided in accordance with Section 84b.7 of the Actuarial Opinion and Memorandum regulation of Pennsylvania. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.”

Eligibility for Section 84b.7 is confirmed as follows:

The ratio of the sum of capital and surplus to the sum of cash and invested assets is (amount), which equals or exceeds the applicable criteria of (ratio).

The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is (amount), which is less than the applicable criteria of (ratio).

The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is (amount), which is less than the applicable criteria of (ratio).

To my knowledge, the NAIC Examiner Team has not designated the company as a “first priority company” in any of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable, or a “second priority company” in each of the 2 calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile.

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

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary”

(6) The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of paragraph (4).

(7) An appointed actuary who is unable to form an opinion shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, the appointed actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason for the opinion. This statement shall follow the scope paragraph and precede the opinion paragraph.

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

“I (name of officer), (title) of (name and address of company or accounting firm), hereby affirm that the listings and summaries of policies and contracts in force as of December 31, (year), prepared for and submitted to (name of appointed actuary), were prepared under my

direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company

or Accounting Firm

Address of the Officer of the Company or

Accounting Firm

Telephone Number of the Officer of the

Company or Accounting Firm”] **Reserved.**

§ 84b.8. 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) An opening paragraph as provided in subsection (b)(1) identifying the appointed actuary and the individual’s qualifications.

(2) A scope paragraph as provided in subsection (b)(2) identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary’s work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed.

(3) A reliance paragraph as provided in subparagraphs (i)—(iii):

(i) If the appointed actuary has deferred to other experts in developing data, procedures or assumptions (for example, anticipated cash flows from currently owned assets, including variation in

cash flows according to economic scenarios), the reliance paragraph should include a statement as provided in subsection (b)(3)(i)(A) or (B), supported by a statement of each expert in the form prescribed by subsection (e).

(ii) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement as provided in subsection (b)(3)(ii).

(iii) If the appointed actuary has not examined the underlying records, but has relied upon 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 as provided in subsection (b)(3)(iii)(A) or (B).

(4) An opinion paragraph as provided in subsection (b)(4) expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities.

(5) One or more additional paragraphs will be needed in individual company cases as follows:

(i) If the appointed actuary considers it necessary to state a qualification of the opinion.

(ii) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis.

(iii) If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR) or other mandatory or voluntary statement reserves for asset adequacy analysis.

(iv) If the appointed actuary must disclose an inconsistency in the method of asset allocation used at the prior opinion date with that used for this opinion.

(v) If there is an inconsistency in the method of analysis used at the prior opinion date with that used for this opinion.

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

(vii) If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(b) *Recommended language.* The following paragraphs shall be included in the statement of actuarial opinion in accordance with this section. The 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 shall use language which clearly expresses the individual's professional judgment. The opinion shall retain all pertinent aspects of the language provided in this subsection.

(1) The opening paragraph shall indicate the appointed actuary's relationship to the company and the individual's qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion shall include a statement such 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 (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.”

(ii) For a consulting actuary, the opening paragraph of the actuarial opinion shall contain a statement such 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 (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 shall include a statement such as follows:

“I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19 (year). Those reserves and related actuarial items which have been subjected to asset adequacy analysis are tabulated as shown in the following table of Reserves and Liabilities.”

(3) The reliance paragraph shall include a statement such as follows:

(i) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as either (A) or (B) as follows:

(A) “I have relied on (name), (title) for (e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios) and, as certified in the attached statement,”

(B) “I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement.”

Such a statement of reliance on other experts shall be accompanied by a statement by each expert in the form prescribed by subsection (e).

(ii) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include a statement such as follows:

“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.”

(iii) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party, the reliance paragraph shall include a statement such as either clause (A) or clause (B) as follows:

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

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

Such a statement of reliance shall be accompanied by a statement by each person relied upon in the form prescribed by subsection (e).

(4) The opinion paragraph shall include a statement such as follows:

“In my opinion the reserves and related actuarial items identified above:

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

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;

Meet the requirements of the valuation law and regulations of the state of (state of domicile) and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.

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;

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

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

policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

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

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

OR

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.)

Note: Choose one of the two immediately preceding paragraphs, whichever is applicable.

Reserves and liabilities					
Asset Adequacy Tested Amounts					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b) (3)	Other Amount (c) (4)	Total Amount (1)+(2)+(3) (5)
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total (Exhibit 10)					
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, Line 27)					
TOTAL RESERVES					
DRR (Page ____ Line ____)					
ARR (Page ____ Line ____)		(c)			
Other Mandatory or Voluntary Reserves					(c)

NOTES:

- (a) The additional actuarial reserves are the reserves established under subsection 84b.5(e)(2).
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in subsection 84b.5(d), by means of symbols which should be defined in footnotes to the table.
- (c) Allocated amount.

Reserves and Liabilities					
Statement Item	Asset Adequacy Tested Amounts				
	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (c)	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					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					

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”

(c) *Assumptions for new issues.* The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of subsection (b)(4).

(d) *Adverse opinions.* If the appointed actuary is unable to form an opinion, the appointed actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, the appointed actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(e) *Reliance on data furnished by other persons.* If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force or asset related information, or both, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared the underlying data similar to either paragraph (1) or (2) or both paragraphs (1) and (2).

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

Signature of the Officer of the Company or
Accounting Firm

Address of the Officer of the Company
or Accounting Firm

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

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

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

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

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

(a) General description. The statement of actuarial opinion required by section 84b.5

shall consist of the following:

(1) An opening paragraph that meets all of the following requirements:

(i) Identifies the actuary's name and title.

(ii) Identifies the insurance company employing the actuary, or if a consulting actuary, the name of the firm with which the actuary is associated.

(iii) States that the actuary is a member of the American Academy of Actuaries and that the actuary meets the Academy qualification standards for rendering the opinion.

(iv) States that the actuary was appointed by, or by the authority of, the Board of Directors of the insurer to render the opinion and is familiar with the valuation requirements applicable to life and health insurance companies.

(v) States the date of the notification letter sent to the Commissioner with respect to the appointment.

(2) A scope paragraph that meets all of the following requirements:

(i) Describes the extent of the appointed actuary's work.

(ii) Includes a tabulation that meets all of the following requirements:

(A) Reconciles the reserves and related actuarial items that are covered by the opinion to the annual statement of the company.

(B) Identifies the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis.

(C) Identifies the reserves and related actuarial items that have not been analyzed for asset adequacy.

(D) Indicates, for each applicable annual statement item the formula reserves, additional actuarial reserves, analysis method, other amount, and total amount in a format consistent with the "Reserves and Liabilities" table as adopted by the NAIC in the Actuarial Opinion and Memorandum Model Regulation No. 822.

(iii) Includes a statement that the actuary has examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items that are included in the tabulation and reported in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31 of the relevant year.

(3) A reliance paragraph that meets all of the following requirements:

(i) Documents the appointed actuary's reliance on other experts to develop certain portions of the analysis in accordance with subsection (c) and states that the actuary has reviewed the information relied upon for reasonableness.

(ii) If the appointed actuary has examined the underlying asset and liability records, includes both of the following statements:

(A) The examination included a review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and tests of the actuarial calculations, as considered necessary by the actuary.

(B) The actuary reconciled the underlying basic asset and liability records to the applicable exhibits and schedules of the company's current annual statement.

(iii) 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, includes the following:

(A) Documentation of such reliance in accordance with subsection (c).

(B) A statement that, in forming the opinion on specified types of reserves, the actuary relied upon data prepared by a company officer certifying in force records or other data.

(C) The name and title of the company officer certifying in force records or other data.

(D) A statement confirming that the actuary evaluated that data for reasonableness and consistency and reconciled that data to the applicable exhibits and schedules of the company's current annual statement.

(E) A statement confirming that the actuary's examination included review of the actuarial assumptions and actuarial methods used and tests of calculations, as considered necessary by the actuary.

(4) An opinion paragraph that meets all of the following requirements:

(i) States that the reserves and related actuarial items identified in the tabulation:

(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 valuation law and regulations of the state of [state of domicile].

(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 changes in actuarial assumptions noted as exceptions in a separate paragraph. 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 assumption within the meaning of this clause.

(E) Provide for all reserves and related actuarial items that ought to be established.

(ii) Includes a statement substantially similar to the following, except that the statement may be omitted, at the discretion of the Commissioner, for an opinion filed on behalf of a company doing business only in this Commonwealth:

"The reserves and related actuarial 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) States that the actuarial methods, considerations and analyses used in forming the actuary's 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) Includes one of the following items, as applicable:

(A) A statement that the opinion is updated annually as required by statute, and to the best of the actuary's knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of the opinion that should be considered in reviewing the opinion.

(B) A description of the material changes that occurred between the date of the statement for which the opinion is applicable and the date of the opinion that should be considered in reviewing the opinion.

(v) States that the impact of unanticipated events subsequent to the date of the opinion is beyond the scope of the opinion.

(vi) States that the asset adequacy portion of the opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

(vii) Includes the date and signature, address and telephone number of the appointed actuary.

(5) One or more paragraphs addressing the following items to the extent applicable:

(i) Disclosure of any qualification of the opinion.

(ii) Disclosure of any inconsistency in the method of asset allocation used at the prior opinion date with that used for the opinion.

(iii) Disclosure of any inconsistency in the method of analysis used at the prior opinion date with that used for the opinion.

(iv) Identification of the existence and extent of any additional actuarial reserves released subsequent to the prior opinion date.

(v) At the option of the appointed actuary, assumptions forming the basis for the actuarial opinion.

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

(c) Reliance on information furnished by other persons. If the appointed actuary relies upon other persons regarding the accuracy or completeness of any data underlying the actuarial opinion or appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion shall:

(1) Precisely identify the items subject to reliance and the persons relied upon.

(2) Include a signed, dated certification from each person upon whom the actuary is relying that includes all of the following:

(i) The name, title, company, address and telephone number of the person upon whom the actuary is relying.

(ii) Items on which the person is providing information.

(iii) A statement as to the accuracy, completeness or reasonableness, as applicable, of the items.

§ 84b.9. Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.

(a) *General.*

(1) In accordance with section 301[(f)(3)](g) of the act (40 P. S. § 71[(f)(3)](g)), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves [under a § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis) opinion]. The memorandum shall be made available for examination by the Commissioner upon the Commissioner's request but will be returned to the company after examination and will

not be considered a record of the 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 the memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of § 84b.5(b) (relating to general requirements), with respect to the areas covered in the memoranda, and so state in their memoranda.

(3) If the Commissioner requests a memorandum and no memorandum exists or if the Commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this chapter, the Commissioner may designate a qualified actuary to review the opinion and prepare supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but will be directed and controlled by the Commissioner. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company. The work papers and documentation of the reviewing actuary shall be retained by the Commissioner.

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 will be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the Commissioner under the act. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of a prior memorandum or opinion for the insurer under this chapter for any one of the current year or the preceding [3] three years.

(4) In accordance with section 301(g) of the act (40 P.S. § 71(g)), the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in this section. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall 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 [under § 84b.8] is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in § 84b.5(d) and additional standards under this chapter. It shall specify all of the following:

(1) For reserves:

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

(ii) Source of liability in force.

(iii) Reserve method and basis.

(iv) Investment reserves.

(v) Reinsurance arrangements.

(vi) 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.

(vii) Documentation of assumptions, such that an actuary reviewing the actuarial memorandum could form a conclusion as to reasonableness, established for all of the following:

(A) Lapse rates (both base and excess).

(B) Interest crediting rate strategy.

(C) Mortality.

(D) Policyholder dividend strategy.

(E) Competitor or market interest rate.

(F) Annuitization rates.

(G) Commissions and expenses.

(H) Morbidity.

(2) For assets:

(i) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets.

(ii) Investment and disinvestment assumptions.

(iii) Source of asset data.

(iv) Asset valuation bases.

(v) Method of asset allocation.

(vi) Documentation of assumptions, such that an actuary reviewing the actuarial memorandum could form a conclusion as to reasonableness, established for all of the following:

(A) Default costs.

(B) Bond call function.

(C) Mortgage prepayment function.

(D) Determining market value for assets sold due to disinvestments strategy.

(E) Determining yield on assets acquired through the investment strategy.

(3) For the [Analysis] analysis basis:

(i) Methodology.

(ii) Rationale for an inconsistency in the method of asset allocation used at the prior opinion date with that used for this opinion and the extent of the inconsistency.

(iii) Rationale for an inconsistency in the method of analysis used at the prior opinion date with that used for this opinion.

(iv) Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed.

(v) Rationale for degree of rigor in analyzing different blocks of business including the level of materiality that was used in determining how rigorously to analyze different blocks of business.

(vi) Criteria for determining asset adequacy including 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.

(vii) [Effect of Federal income taxes, reinsurance and other relevant factors] Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(4) [Summary of results] Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.

(5) [Conclusion] Summary of results.

(6) Conclusions.

(c) Details of the regulatory asset adequacy issues summary

(1) The regulatory asset adequacy issues summary shall include all of the following:

(i) 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 be reasonably be expected to arise from the assets and liabilities remaining in force.

(ii) 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.

(iii) 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.

(iv) Comments on any interim results that may be of significant concern to the appointed actuary.

(v) 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.

(vi) 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 [such as follows] substantially similar to the following:

“Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which 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 an 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 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 supporting the IMR, AVR and other mandatory or voluntary reserves used in the analysis shall be disclosed in the table of

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

(f) Documentation. 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.

§ 84b.10. [Additional considerations for analysis.

(a) *Aggregation*

(1) For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis), reserves and assets may be aggregated by one of the following methods:

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

(ii) Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with

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

(A) Developed using consistent economic scenarios.

(B) Subject to mutually independent risks, that is, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

(2) In the event of any aggregation, the actuary shall disclose in the opinion that such reserves were aggregated on the basis of the method described in paragraph (1)(i), (ii)(A) or (B), whichever is applicable, and describe the aggregation in the supporting memorandum.

(b) *Selection of assets for analysis.* The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, referred to as “specified reserves.” A particular asset or portion thereof supporting a group of specified reserves cannot support another group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves may not exceed the annual statement value of the specified reserves, except as provided in subsection (c). If the method of asset allocation is not consistent from year to

year, the inconsistency shall be disclosed in the opinion and the extent of its inconsistency and the rationale for the inconsistency shall be described in the supporting memorandum.

(c) *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 an 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 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 supporting the IMR, AVR and other mandatory or voluntary reserves used in the analysis shall be disclosed in the table of reserves and liabilities of the opinion. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(d) *Required interest scenarios.*

(1) For the purpose of performing the asset adequacy analysis required by this chapter, the qualified actuary shall follow standards adopted by the Actuarial Standards Board. The appointed actuary shall consider in the analysis the effect of the following interest rate scenarios.

(i) Level with no deviation.

(ii) Uniformly increasing over 10 years at $\frac{1}{2}\%$ per year and then level.

(iii) Uniformly increasing at 1% per year over 5 years and then uniformly decreasing at 1% per year to the original level at the end of 10 years and then level.

(iv) An immediate increase of 3% and then level.

(v) Uniformly decreasing over 10 years at ½% per year and then level.

(vi) Uniformly decreasing at 1% per year over 5 years and then uniformly increasing at 1% per year to the original level at the end of 10 years and then level.

(vii) An immediate decrease of 3% and then level.

(2) For the scenarios in paragraph (1) and other scenarios which may be used, projected interest rates for a 5-year Treasury Note need not be reduced beyond the point where the 5-year Treasury Note yield would be at 50% of its initial level.

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

(e) *Documentation.* The appointed actuary shall retain on file, for at least 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.] **Reserved.**

§ 84b.11. Insurance company disciplinary action.

A company willfully making a false filing of an actuarial opinion or supporting memorandum with the Commissioner or failing to demonstrate a good faith effort to comply with this chapter or section 301[(f)](g) of the act (40 P. S. § 71[(f)](g)) may be subject to a civil penalty not to exceed \$50,000, following notice and a hearing.



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

SPECIAL PROJECTS OFFICE
1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 772-1969
E-mail: psalvatore@state.pa.us

August 18, 2008

Mr. Kim Kaufman
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17101

Re: Insurance Department Final Form Regulation No. 11-235, Actuarial Opinion and Memorandum

Dear Mr. Kaufman:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is final form regulation 31 Pa. Code, Chapter 84b, Actuarial Opinion and Memorandum.

The purpose of the final form rulemaking is to update Chapter 84b to include amendments made by the National Association of Insurance Commissioners ("NAIC") to Model Regulation 822, entitled "Actuarial Opinion and Memorandum Regulation." That regulation requires all life insurance companies and fraternal benefit societies to submit actuarial opinions based on an asset adequacy analysis, commonly known as "Section 8 opinions." Several of these changes are required for the Insurance Department to maintain accreditation by the NAIC beginning in 2009.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in cursive script that reads "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 11-235
 SUBJECT: ACTUARIAL OPINION AND MEMORANDUM
 AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2008 AUG 18 AM 9:56
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/18/08	<i>Bernardo Alexandre</i>	HOUSE COMMITTEE ON INSURANCE
8/18/08	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>REP. ANTHONY DeLUCA</u>
8/10/08	<i>[Signature]</i>	SENATE COMMITTEE ON BANKING & INSURANCE
8/18/08	<i>M. Powers</i>	MAJORITY CHAIRMAN <u>SEN DONALD WITTY</u>
8/18/08	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)