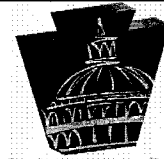


**#11-244 Insurance Department #2866
Actuarial Opinion and Memorandum**

**This regulation includes an attached
Draft Model Regulation from the
National Association of Insurance
Commissioners that was not included in
the original delivery on August 24, 2010.**

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

Insurance Department

(2) Agency Number:

Identification Number: 11-244

IRRC Number:

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IRRC
2866

(3) Short Title:

Actuarial Opinion and Memorandum

(4) PA Code Cite:

31 Pa.Code Chapter 84b

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

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

Secondary Contact:

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking updates Chapter 84b to include amendments made by the National Association of Insurance Commissioners ("NAIC") to Model Regulation 822 entitled "Actuarial Opinion and Memorandum Regulation," in September 2009. Chapter 84b 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 amendment revises section 84b.9 in accordance with amendments to the NAIC model regulation. Specifically, this amendment indicates that a regulatory asset adequacy issues summary should include (as an example of the type of interim results that require comment by the appointed actuary) a statement regarding the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods as per the requirement contained in the proposed amendment to 31 Pa. Code 84c.5(b). These amendments are proposed in conjunction with proposed amendments to Chapters 84c and 84d of Title 31 of the Pennsylvania Code. All three sets of amendments should be promulgated simultaneously in order to effectively implement the requirements set forth by the amendments to the NAIC models.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 09/28/10
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: 03/01/11
- D. The expected effective date of the final-form regulation: 07/01/11
- E. The date by which compliance with the final-form regulation will be required: 07/01/11
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

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

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

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

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 of 1921 (40 P.S. § 71).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. However, this amendment will maintain consistency of this regulation with the NAIC model. Chapter 84b is an accreditation standard.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Since the proposed 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.

Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

There will be no adverse effects. The regulation merely requires the appointed actuary to provide additional comments in the regulatory asset adequacy issues summary required by existing regulation.

(16) 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.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The proposed amendment would not have an effect on the costs and/or savings to the regulated community, in that the amendment merely provides a specific example of the type of interim results that require comment by the appointed actuary in the regulatory asset adequacy issues summary.

(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. Explain how the dollar estimates were derived.

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. Explain how the dollar estimates were derived.

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

Regulatory Analysis Form

(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.

	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) Provide the past three year expenditure history for programs affected by the regulation.

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

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

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

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The insurance industry, working with the NAIC, provided input regarding the amendments to this regulation.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

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 opinion and supporting memoranda and nonregulatory alternatives are not feasible.

(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 regulations.

No.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

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

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

No.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

N/A

(28) 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.

N/A

CDL-1

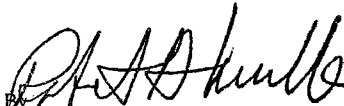
FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

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IRRC
2010 AUG 24 P 12:24

DO NOT WRITE IN THIS SPACE

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


(Deputy Attorney General)

AUG 11 2010
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. 11-244

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

JUL 21 2010

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 PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 84b Sections 84b.9

Actuarial Opinion and Memorandum.

Preamble

The Insurance Department (Department) proposes to amend 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, 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).

Purpose

The purpose of the proposed 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 amendments to this regulation are proposed in conjunction with proposed amendments to 31 Pa. Code 84c (relating to Valuation of Life Insurance Policies) which would remove restrictions on the mortality adjustment factors (X factors) in deficiency reserve calculations. Specifically, the amendments to Chapter 84b are proposed to modify requirements for the content of a regulatory asset adequacy issues summary of the actuarial memorandum to require the inclusion of a statement regarding the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

A copy of the copyrighted NAIC model regulation was provided to the Legislative Standing Committees, the Independent Regulatory Review Commission ("IRRC"), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed regulation. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Regulatory Requirements

The following is a description of the changes contained in the proposed rulemaking:

Section 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary) is being revised to comply with amendments to the NAIC model regulation. This amendment provides that a statement of "the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods" is an example of the type of comments on interim results that must be included by the appointed actuary in the regulatory asset adequacy issues summary required by this Chapter.

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 the proposed amendment to Chapter 84b. As part of its solvency monitoring responsibilities, the Department currently reviews statements of actuarial opinion and supporting memoranda. Thus, this proposed rulemaking will not require any additional staff time or resources to perform the analysis.

General Public

Since the proposed 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 proposed rulemaking will not impose additional costs on political subdivisions. However, because the proposed 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 proposed rulemaking will not impose additional costs on insurers.

Paperwork

The adoption of this proposed rulemaking would not impose additional paperwork on the Department.

Effectiveness/Sunset Date

The rulemaking will become effective _____ (Editor's Note: the rulemaking will become effective by the first of the month following 60 days from the publication date of this regulation in final form.). The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the

Pennsylvania Bulletin. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Pursuant to the Regulatory Review Act (71 P.S. §745.1 et seq.), the Department is required to write to all commentators, requesting whether or not they wish to receive a copy of the final form regulation. In order to better serve our stakeholders, the Department has made a determination that all commentators will receive a copy of the final form rulemaking when it is made available to the IRRC and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on August 24, 2010, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has, as required by the Regulatory Review Act, provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

The IRRC will notify the Department of any objections to any portion of the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor, and the General Assembly to review these objections before final publication of the regulations.

Joel Ario
Insurance Commissioner

**CONTINUATION SHEET FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
Pursuant to Commonwealth Documents Law**

ANNEX A

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

Sec.

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

* * * * *

(c) Details of the regulatory asset adequacy issues summary

(1) The regulatory asset adequacy issues summary must include the following:

* * * * *

(iv) Comments on any interim results that may be of significant concern to the appointed actuary (for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods).

* * * * *

Draft: 4/28/09
Revisions to Model 822
Adopted by the Life and Health Actuarial Task Force, 6/3/09

ACTUARIAL OPINION AND MEMORANDUM REGULATION

Table of Contents

Section 1.	Purpose
Section 2.	Authority
Section 3.	Scope
Section 4.	Definitions
Section 5.	General Requirements
Section 6.	Statement of Actuarial Opinion Based On Asset Adequacy Analysis
Section 7.	Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

* * * *

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

C. Details of the Regulatory Asset Adequacy Issues Summary

- (1) The regulatory asset adequacy issues summary shall include:
 - (a) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.
 - (b) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;
 - (c) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;
 - (d) Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;
 - (e) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

- (f) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.
- (2) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

* * * *

PROJECT HISTORY

ACTUARIAL OPINION AND MEMORANDUM REGULATION

1. Description of the Project, Issues Addressed, etc.

The project was to remove the restrictions on the mortality adjustment factors (X factors) in the deficiency reserve calculation required by the Valuation of Life Insurance Policies Model Regulation. Therefore, the Task Force, as part of the Regulatory Asset Adequacy Issues Summaries required of life insured companies each year, required the appointed actuary to make a statement as to the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods. The definition of the Regulatory Asset Adequacy Issues Summary as defined in the Actuarial Opinion and Memorandum Regulation was modified to reflect this requirement.

2. Name of Group Responsible for Drafting the Model and States Participating

The 2009 members of the Life and Health Actuarial Task Force are: Kansas (chair), South Carolina (Vice Chair), Alaska, Alabama, Arkansas, California, Connecticut, Florida, Hawaii, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Texas and Utah.

3. Project Authorized by What Charge and Date First Given to the Group

The initial charge was given to the Task Force in November, 2008, by the Capital and Surplus Relief (EX) Working Group to consider the November 11, 2008, proposal from the American Council of Life Insurers. The proposal was rejected by the Executive Committee in January, 2009. At the 2009 Commissioners Conference the Task Force was again charged with reviewing the proposal.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The initial drafts were provided by the American Council of Life Insurers. A subgroup of the Task Force made changes and made a recommendation to the Task Force. The Task Force made several modifications.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The subgroup discussed the proposal at public conference calls on this topic on the following dates: March 27, 2009; March 31, 2009; April 7, 2009; April 14, 2009; April 21, 2009; and April 28, 2009. The Task Force held a public conference call on this topic on May 4, 2009. Notice of each of these conference calls was posted on the NAIC's home page on the Internet and e-mailed to approximately 300 interested parties. Drafts of the document were released for comment on December 23, 2008 and May 4, 2009. The Task Force voted to adopt the model regulation on June 3, 2009, without an additional 30-day exposure period. The vote was eleven in favor (Alabama, Alaska, Arkansas, California, Connecticut, Minnesota, Missouri, Nebraska, Oklahoma, South Carolina, and Texas), two abstaining (Florida and New York) and one not voting (Ohio).

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

7. Any Other Important Information (e.g., amending an accreditation standard).

This model regulation is an accreditation standard.

W:\Sep09\Plenary\Att 07 822.pdf



August 24, 2010

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

RECEIVED
IRRC
2010 AUG 24 P 12:25

Re: Insurance Department Proposed Regulation No. 11-244, Actuarial Opinion and Memorandum

Dear Mr. Kaufman:

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

The purpose of the proposed 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."

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: 11-244
 SUBJECT: ACTUARIAL OPINION AND MEMORANDUM
 AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- X Proposed Regulation
 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
IRRC
2010 AUG 24 P 12:25**

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/24/10	<i>Shelia Eckhart</i>	HOUSE COMMITTEE ON INSURANCE
8/24/10	<i>Anthony Deluca</i>	MAJORITY CHAIRMAN <u>REP. ANTHONY DELUCA</u>
	<i>Frank Jacobs</i>	SENATE COMMITTEE ON BANKING & INSURANCE
	<i>Donald C. White</i> 8/24/10	MAJORITY CHAIRMAN <u>SEN. DONALD C. WHITE</u>
8/24/10	<i>Cheryl Yoder</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
8/24/10	<i>n. Lattin</i>	LEGISLATIVE REFERENCE BUREAU

August 11, 2010