

Title 210 NEBRASKA DEPARTMENT OF INSURANCE

Chapter 69 ACTUARIAL OPINION AND MEMORANDUM REGULATION

001. Purpose

The purpose of this regulation is to prescribe:

- 001.01 Requirements for statements of actuarial opinion that are to be submitted in accordance with §44-421, and for memoranda in support thereof;
- 001.02 Rules applicable to the appointment of an appointed actuary; and
- 001.03 Guidance as to the meaning of adequacy of reserves.

002. Authority

This regulation is issued pursuant to the authority vested in the Director of Insurance of the State of Nebraska under §44-427. This regulation will take effect for annual statements beginning the year 2010.

003. Scope

This regulation shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Director shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the Director's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

This regulation shall be applicable to all annual statements filed with the office of the Director after the effective date of this regulation. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with 006 of this

regulation, and a memorandum in support thereof in accordance with 007 of this regulation, shall be required each year.

004. Definitions

- 004.01 Actuarial Opinion

Actuarial Opinion means:

The opinion of an Appointed Actuary regarding the adequacy of the

004.08 Qualified Actuary

Qualified actuary means any individual who meets the requirements set forth in 005.02 of this regulation.

005. General Requirements

005.01 Submission of Statement of Actuarial Opinion

005.01(A) There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this regulation becomes effective the statement of an appointed actuary, entitled Statement of Actuarial Opinion, setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 006 of this regulation.

005.01(B) Upon written request by the company, the Director may grant an extension of the date for submission of the statement of actuarial opinion.

005.02 Qualified Actuary

A qualified actuary is an individual who:

005.02(A) Is a member in good standing of the American Academy of Actuaries;

005.02(B) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

005.02(C) Is familiar with the valuation requirements applicable to life and health insurance companies;

005.02(D) Has not been found by the Director (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

005.02(D)(1) Violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary;

005.02(D)(2) Been found guilty of fraudulent or dishonest practices;

005.02(D)(3) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

005.02(D)(4) Submitted to the Director during the past five (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the Director rejected

005.04(A) Shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this regulation, which standards are to form the basis of the statement of actuarial opinion in accordance with this regulation; and

005.04(B) Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

005.05 Liabilities to be Covered

005.05(A) Under authority of §44-420 through §44-427, the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 5, 6 and 7, and claim liabilities in Exhibit 8, Part 1 and equivalent items in the separate account statement or statements.

005.05(B) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in law, §§ 44-403 and 44-404, the company shall establish the additional reserve.

005.05(C) Additional reserves established under 005.05(B) above and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

006. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis

006.01 General Description

The statement of actuarial opinion submitted in accordance with this section shall consist of:

006.01(A) A paragraph identifying the appointed actuary and his or her qualifications (see 006.02(A));

006.01(B) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the

appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, (see 006.02(B)) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

006.01(C) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions. (e.g.

expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in 006.02.

006.02(A) The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as :

I, [name], am [title] of [ insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.

For a consulting actuary, the opening paragraph should include a statement such as:

I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Director dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.

006.02(B) The scope paragraph should include a statement such as:

I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[ ]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts

Reserves and Liabilities

Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
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Exhibit 7  
Premium and  
Other  
Deposit Funds  
(Column 6, Line  
14)

Guaranteed  
Interest  
Contracts  
(Column 2, Line  
14)

Supplemental  
Contracts  
(Column 4, Line  
14)

Annuities  
Certain (Column  
3, Line 14)

Dividend  
Accumulations or  
Refunds  
(Column 5, Line  
14)

Total Exhibit 7  
(Column 1, Line  
14)

Exhibit 8 Part 1  
1 Life (Page 3,  
Line 4.1)

2 Health (Page 3,  
Line 4.2)

Total Exhibit 8,  
Part 1

Separate Accounts  
(Page 3 of the  
Annual Statement  
of the Separate  
Accounts, Lines 1,  
2, 3.1, 3.2, 3.3)

TOTAL  
RESERVES

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

My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement.

006.02(E) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force and/or asset records) prepared by the company, the reliance paragraph should include a statement such as:

In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary.

The section shall be accompanied by a statement by each person relied upon of the form prescribed by 006.05.

006.02(F) The opinion paragraph should include a statement such as:

In my opinion the reserves and related actuarial values concerning the statement items identified above:

006.02(F)(1) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

006.02(F)(2) 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;

006.02(F)(3) Meet the requirements of the Insurance law and regulation of the state of [state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

006.02(F)(4) Are computed on the basis of assumptions

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 above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be reviewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date

006.03 Assumption for New Issues

The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of 006.

006.04 Adverse Opinions

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

006.05 Reliance on Information Furnished by Other Persons

If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the

statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Director. Such rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the Director has not denied the request by that date.

006.06(A)(3) A statement that the reserves meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state.

006.06(A)(3)(i) If the Director chooses to allow this alternative, a formal written list of products (to be added to the table in Item (ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

006.06(A)(3)(ii) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard
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006.06(A)(3)(iii) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

006.06(A)(3)(iv) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining

meaning of 005.02 of this regulation, with respect to the areas covered in such memoranda, and so state in their memoranda.

- 007.01(C) If the Director requests a memorandum and the company fails to provide the Director with the memorandum within thirty days of such request or if the Director finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this regulation, the Director may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Director.
- 007.01(D) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Director; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Director and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the Director pursuant to the statute governing this regulation. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this regulation for any one of the current year or the preceding three (3) years.
- 007.01(E) In accordance with § 44-421, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in 007.03. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.
- 007.02 Details of the Memorandum Section Documenting Asset Adequacy Analysis
- When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in 005.04 of this regulation and any additional standards under this regulation. It shall specify:

- 007.02(A) For reserves:
- 007.02(A)(1) Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
- 007.02(A)(2) Source of liability in force;
- 007.02(A)(3) Reserve method and basis;

007.02(B)(1) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

007.02(B)(2) Investment and disinvestment assumptions;

007.02(B)(3) Source of asset data;

007.02(B)(4) Asset valuation bases; and

007.02(B)(5) Documentation of assumptions made for:

007.02(B)(5)(i) Default costs;

007.02(B)(5)(ii) Bond call function;

007.02(B)(5)(iii) Mortgage prepayment function;

007.02(B)(5)(iv) Determining market value for assets sold due to disinvestment strategy; and

007.02(B)(5)(v) Determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

007.02(C) For the analysis basis:

007.02(C)(1) Methodology;

007.02(C)(2) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

007.02(C)(3) Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of materiality that was used in determining how rigorously to analyze different blocks of business);

007.02(C)(4) Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under moderately adverse conditions or other conditions as specified in relevant actuarial standards of practice); and

007.02(C)(5) Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

007.02(D) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

007.02(E) Summary of Results; and

benefits and expenses and the establishment of statutory reserves during one or more interim periods;

007.03(A)(5) 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

007.03(A)(6) 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.

007.03(B) 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.

#### 007.04 Conformity to Standards of Practice

The memorandum shall include a statement:

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.

007.05 Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve:

An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

007.06 Documentation

The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

#### 008. Severability

If any section of this regulation, or the applicability thereof to any person or circumstance, is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.