

§952-A. Actuarial opinion of reserves

1. General. An insurer doing business in this State subject to this subchapter shall appoint a qualified actuary, in accordance with any applicable requirements of the valuation manual or rules adopted by the superintendent, and annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items of that insurer held in support of the policies and contracts specified by the superintendent by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. Before the operative date of the valuation manual, the superintendent by rule shall define the specifics of the opinion. On and after the operative date of the valuation manual, if the valuation manual has prescribed specific requirements applicable to the opinion, the opinion must comply with those requirements. The superintendent by rule may add any other items considered necessary to the scope of the opinion.

[PL 2013, c. 238, Pt. C, §5 (AMD).]

2. Actuarial analysis of reserves and assets supporting those reserves. Except as otherwise authorized or required in accordance with rules adopted by the superintendent or applicable provisions of the valuation manual, an insurer subject to this subchapter shall include in the opinion required by subsection 1 an opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the superintendent by rule, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, adequately provide for the insurer's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

The superintendent may provide by rule for a transition period for establishing any higher reserves that the appointed actuary may consider necessary in the opinion required by this subsection.

[PL 2013, c. 238, Pt. C, §5 (AMD).]

3. Requirement for opinion under subsection 2. An opinion required by subsection 2 is governed by the following provisions.

A. A memorandum, in form and substance acceptable to the superintendent as specified in the valuation manual or by rule, must be prepared to support the actuarial opinion. [PL 2013, c. 238, Pt. C, §5 (AMD).]

B. If the insurer fails to provide a supporting memorandum at the request of the superintendent within a period specified in the valuation manual or by rule or the superintendent determines that the supporting memorandum provided by the insurer fails to meet the prescribed standards or is otherwise unacceptable to the superintendent, the superintendent may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare a supporting memorandum as required by the superintendent. [PL 2013, c. 238, Pt. C, §5 (AMD).]
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4. Requirement for all opinions. An opinion required pursuant to subsection 1 or 2 is governed by the following provisions.

A. The opinion must be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1995. [PL 1993, c. 634, Pt. B, §1 (NEW); PL 1993, c. 634, Pt. B, §4 (AFF).]

B. The opinion must apply to all business in force, including individual and group health insurance plans, in a form and substance acceptable to the superintendent. [PL 2013, c. 238, Pt. C, §5 (AMD).]

B-1. The opinion must comply with the requirements of any applicable rules and, on and after the operative date of the valuation manual, must comply with all applicable requirements of the valuation manual. [PL 2013, c. 238, Pt. C, §5 (NEW).]

C. The opinion must be based on standards adopted by the Actuarial Standards Board or its successor and, to the extent applicable, on any additional standards prescribed by the valuation manual or prescribed by the superintendent by rule. [PL 2013, c. 238, Pt. C, §5 (AMD).]

D. In the case of an opinion required to be submitted by a foreign or alien insurer, the superintendent may accept the opinion filed by that insurer with the insurance supervisory official of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this State. [PL 1993, c. 634, Pt. B, §1 (NEW); PL 1993, c. 634, Pt. B, §4 (AFF).]

E. [PL 2013, c. 238, Pt. C, §5 (RP).]

F. Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurer and the superintendent, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion. [PL 2013, c. 238, Pt. C, §5 (AMD).]

G. The superintendent may take disciplinary action against the insurer or the appointed actuary pursuant to section 12-A for knowing violations of this section and may establish additional grounds for disciplinary action by rule. [PL 2013, c. 238, Pt. C, §5 (AMD).]

H. [PL 2013, c. 238, Pt. C, §5 (RP).]

I. [PL 2013, c. 238, Pt. C, §5 (RP).]

J. [PL 2013, c. 238, Pt. C, §5 (RP).]

K. [PL 2013, c. 238, Pt. C, §5 (RP).]

L. [PL 2013, c. 238, Pt. C, §5 (RP).]

M. [PL 2013, c. 238, Pt. C, §5 (RP).]

[PL 2013, c. 238, Pt. C, §5 (AMD).]

5. Applicability to health carriers. A health carrier not otherwise subject to this section or section 993 shall file an actuarial opinion in accordance with the applicable National Association of Insurance Commissioners annual statement instructions. For purposes of this section, "health carrier" means an insurer, health maintenance organization, nonprofit corporation subject to Title 24 or fraternal benefit society that provides health insurance or comparable health benefits. This section and rules adopted pursuant to this section apply to health carriers to the extent provided in the valuation manual. Before the operative date of the valuation manual, this section and rules adopted pursuant to this section apply to health carriers to the extent that they specifically refer to health carriers or impose requirements that are consistent with and no more stringent than the annual statement instructions.

[PL 2013, c. 238, Pt. C, §5 (AMD).]

SECTION HISTORY

PL 1993, c. 634, Pt. B, §1 (NEW). PL 1993, c. 634, Pt. B, §4 (AFF). PL 2001, c. 89, §§1, 2 (AMD). PL 2009, c. 511, Pt. B, §1 (AMD). PL 2011, c. 320, Pt. A, §6 (AMD). PL 2013, c. 238, Pt. C, §5 (AMD).

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