

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R146-12

PROPOSED REGULATION CONCERNING THE ACTUARIAL OPINION AND
MEMORANDUM FOR LIFE INSURANCE COMPANIES

June 25, 2012

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ NRS 679B.130, 680A.270, 681B.145, 681B.210, 681B.220, 681B.230, and 681B.240.

A REGULATION prescribing requirements for the filing of actuarial opinions of reserves and supporting documentation thereof for life insurance companies.

Section 1. Chapter 681B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 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 insurer'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 insurer 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.

Sec. 3. 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 considered to be a change in actuarial assumptions for purposes of NAC 681B.210 and 681B.220.

Sec. 4. 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 reasons for the opinion.

Sec. 5. 1. *Pursuant to paragraph (c) of subsection 2 of NRS 681B.110, the Commissioner has broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to an insurer domiciled in this state in the aggregate. For foreign insurers, the Commissioner may allow the opining actuary to use alternative approaches to satisfy the requirements of NAC 681B.210.*

2. Notwithstanding the above, the Commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If an insurer is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Commissioner after consultation with the insurer, the Commissioner may contract an independent actuary at the insurer's expense to prepare and file the opinion.

Sec. 6. NAC 681B.115 is hereby amended to read as follows:

“Appointed actuary” means a qualified actuary who is appointed or retained by an insurer, *in accordance with the requirements of NAC 681B.170, either directly, or by the authority of the board of directors through an executive officer of the insurer other than the qualified actuary,* to prepare the opinions required pursuant to NRS 681B.210 and 681B.220 and the supporting memorandum required pursuant to NRS 681B.230.

Sec. 7. NAC 681B.150 is hereby amended to read as follows:

“Opinion of a qualified actuary” means:

1. The opinion *of an appointed actuary* as to the computation of reserves and related items of an insurer required pursuant to NRS 681B.210; or

2. The opinion *of an appointed actuary* as to the adequacy of the reserves and related actuarial items of an insurer based on an asset adequacy analysis required pursuant to NRS 681B.220.

Sec. 8. NAC 681B.155 is hereby amended to read as follows:

“Qualified actuary” means a person who:

1. Is ~~[a member in good standing of the American Academy of Actuaries]~~ *an actuary who is a member of the American Academy of Actuaries and qualified to provide such certifications as described in the U.S. Qualifications Standards promulgated by the American Academy of Actuaries pursuant to the Code of Professional Conduct;*
2. Is qualified *in accordance with the American Academy of Actuaries’ qualification standards* to sign *actuarial* opinions ~~[of qualified actuaries]~~ for life and health insurers’ *annual statements* ~~[pursuant to the standards of the organization];~~
3. Is familiar with the valuation requirements applicable to life and health insurers;
4. Has not been found by the Commissioner to have:
 - (a) In the course of the person’s dealings as a qualified actuary, violated any provision of, or any obligation imposed by, the Nevada Insurance Code or any other law;
 - (b) Been guilty of fraudulent or dishonest practices;
 - (c) Demonstrated his or her incompetency, lack of cooperation or untrustworthiness to act as a qualified actuary;
 - (d) Submitted to the Commissioner during the past 5 years an opinion of a qualified actuary or a supporting memorandum that the Commissioner rejected because it did not meet the standards set forth in NAC 681B.100 to 681B.245, inclusive, or the Standards of Actuarial Practice adopted by the Actuarial Standards Board; or
 - (e) Resigned or been removed as an actuary within the past 5 years as a result of acts or

omissions indicated in any adverse report on examination or because the person failed to adhere to generally acceptable actuarial standards; and

5. Has not failed to notify the Commissioner of the rejection by the insurance regulatory authority of any other state of a submitted opinion or supporting memorandum on grounds similar to those described in paragraph (d) of subsection 4.

The term includes a person who has been found by the Commissioner to have committed one or more of the actions described in subsection 4 and has subsequently been reinstated as a qualified actuary by the Commissioner, unless the person otherwise does not meet the definition of the term.

Sec. 9. NAC 681B.165 is hereby amended to read as follows:

1. Every insurer shall annually submit the opinion of an ~~qualified~~ *appointed* actuary required pursuant to NRS 681B.210.

2. Every insurer~~[, unless exempted pursuant to NAC 681B.185, 681B.190 or 681B.195,]~~ shall also annually submit the opinion of an ~~qualified~~ *appointed* actuary based on an asset adequacy analysis required pursuant to NRS 681B.220 and prepare the supporting memorandum required pursuant to NRS 681B.230.

~~[3. Notwithstanding the provisions of subsection 2, the Commissioner may, if he or she determines that an asset adequacy analysis is necessary with respect to an insurer who is otherwise exempt from submitting the opinion of a qualified actuary based on an asset adequacy analysis required pursuant to NRS 681B.220 and preparing the supporting memorandum required pursuant to NRS 681B.230, require the insurer to submit such an opinion and prepare such a memorandum.]~~

~~[4.]~~ 3. The opinion or opinions of an ~~qualified~~ *appointed* actuary submitted pursuant to this

section must be included on or attached to the first page of the annual statement for the insurer and must be entitled “Statement of Actuarial Opinion.”

4. An actuarial opinion prepared by the insurer’s appointed actuary pursuant to this section shall be filed in accordance with the appropriate Annual Statement Instructions: Life, Accident & Health, as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the opinion.

5. Upon written request by the insurer, the Commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

Sec. 10. NAC 681B.170 is hereby amended to read as follows:

1. Each insurer required to submit an opinion of a qualified actuary pursuant to NRS 681B.210 or 681B.220 shall notify the Commissioner, in writing, of:

(a) The name, title and manner of appointment or retention of each person appointed or retained by the insurer as an appointed actuary; and

(b) If the appointed actuary is a consulting actuary, the name of the firm ~~[appointed or retained]~~ *that he or she represents.*

2. The insurer shall state in the notice required pursuant to subsection 1 that the person appointed as actuary is a qualified actuary.

3. Once notice is furnished pursuant to this section, no further notice is required with respect to the actuary, unless the actuary ceases to be appointed or retained as an appointed actuary or ceases to meet the requirements of a qualified actuary. The insurer shall timely notify the Commissioner, in writing, if the appointed actuary for the insurer ceases to be appointed or retained as an appointed actuary or ceases to meet the requirements of a qualified actuary. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the

notice must state that the appointed actuary is replacing the previously appointed actuary and give the reasons for the replacement.

Sec. 11. NAC 681B.210 is hereby amended to read as follows:

1. A statement of actuarial opinion based on an asset adequacy analysis submitted pursuant to NRS 681B.220 must contain:

(a) A paragraph which identifies the appointed actuary and lists his or her qualifications;

(b) A paragraph which identifies the subjects on which the opinion is expressed and describes the scope of the appointed actuary's work, including a tabulation which:

(1) Delineates the reserves and related actuarial items which have been analyzed for asset adequacy;

(2) Delineates the method of analysis; and

(3) Identifies the reserves and related actuarial items covered by the opinion which have not been analyzed;

(c) A paragraph which describes those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, including, but not limited to, anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios;

(d) A supporting statement prepared by each expert consulted pursuant to paragraph (c);

(e) A paragraph which expresses the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities;

(f) If the actuary determines that it is necessary to qualify his or her opinion, a paragraph which contains the qualification;

~~[(g) If it is necessary for the appointed actuary to disclose the method of aggregation for reserves~~

~~of different products or lines of business for asset adequacy analysis, a paragraph which contains the disclosure;~~

~~(h) If it is necessary for the appointed actuary to disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve, Interest Maintenance Reserve or other mandatory or voluntary statement of reserves for asset adequacy analysis, a paragraph which contains the disclosure;]~~

~~(i)~~ (g) If it is necessary for the appointed actuary to disclose an inconsistency in the method of analysis or basis of asset allocation used in a previous opinion with that used in the opinion, a paragraph which contains the disclosure;

~~(j)~~ (h) If it is necessary for the appointed actuary to disclose whether additional reserves required as of the date of a previous opinion are released as of the date of the current opinion and the extent of the release, a paragraph which contains the disclosure; and

~~(k)~~ (i) If the appointed actuary wishes to add a brief description of the assumptions which form the basis for the actuarial opinion, a paragraph which contains the description.

2. The paragraph required pursuant to paragraph (b) of subsection 1 must include, without limitation:

(a) Aggregate reserves and deposit funds for policies and contracts included in Exhibit ~~{8}~~ 5 of the insurer's annual statement;

(b) Aggregate reserves and deposit funds for policies and contracts included in Exhibit ~~{9}~~ 6 of the insurer's annual statement;

(c) Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit ~~{10}~~ 7 of the insurer's annual statement; and

(d) Liability for the end of the current year based on policy and contract claims included in

Part I of Exhibit ~~(H)~~ 8 of the insurer's annual statement.

3. Upon request, the Commissioner will provide guidelines for language that will satisfy the provisions of this section.

Sec. 12. NAC 681B.215 is hereby amended to read as follows:

1. The supporting memorandum required pursuant to NRS 681B.230 must be made available for examination by the Commissioner upon his or her request. The memorandum will be returned to the insurer after it is examined by the Commissioner and will not be considered a record of the Division or filed 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 qualified actuaries. Each memorandum prepared and signed by another actuary must contain a statement that the actuary who prepared the memorandum is a qualified actuary.

3. If the Commissioner engages a qualified actuary to review the opinion of another qualified actuary pursuant to NRS 681B.230, the review will be directed and controlled by the Commissioner. The actuary engaged by the Commissioner will have the authority provided to an examiner pursuant to NRS 679B.230 to 679B.300, inclusive, for the purposes of obtaining data from the insurer. The work papers and documentation of the reviewing actuary will be retained by the Commissioner. All information provided by the insurer to the reviewing actuary and included in the work papers shall be deemed material provided by the insurer to the Commissioner and must be kept confidential in the same manner as material provided by the insurer to the Commissioner pursuant to NRS 679B.230 to 679B.300, inclusive. The reviewing actuary must not be an employee of a consulting firm involved with the preparation of any previous memorandum or opinion for the insurer submitted pursuant to NRS 681B.210,

681B.220 or 681B.230 for the current year or any of the immediately preceding 3 years.

4. In accordance with NRS 681B.220, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in section 2 of this regulation.

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.

Sec. 13. NAC 681B.220 is hereby amended to read as follows:

1. A supporting memorandum provided pursuant to NRS 681B.230 must *meet the standards of the Actuarial Standards Board and* demonstrate that the asset adequacy analysis has been performed in accordance with the provisions of NAC 681B.175. The memorandum must specify:

(a) For reserves:

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

(2) The source of liability in force;

(3) The reserve method and basis;

(4) The investment reserves; ~~and~~

(5) The reinsurance arrangements;

(6) 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; and

(7) Documentation of assumptions to test reserves for the following:

- (I) Lapse rates (both base and excess);*
- (II) Interest crediting rate strategy;*
- (III) Mortality;*
- (IV) Policyholder dividend strategy;*
- (V) Competitor or market interest rate;*
- (VI) Annuitization rates;*
- (VII) Commissions and expenses; and*
- (VIII) Morbidity.*

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.

(b) For assets:

(1) The portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

(2) The investment and disinvestment assumptions;

(3) The source of asset data; ~~and~~

(4) The asset valuation bases; *and*

(5) Documentation of assumptions made for:

(I) Default costs;

(II) Bond call function;

(III) Mortgage prepayment function;

(IV) Determining market value for assets sold due to disinvestment strategy; and

(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.

(c) The analysis basis, including:

(1) The methodology;

(2) The rationale for inclusion or exclusion of different blocks of business and the manner in which pertinent risks were analyzed;

(3) The 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*);

(4) The 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

(5) ~~[The 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;*

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

~~[(d)]~~ (e) A summary of results; and

~~[(e)]~~ (f) A conclusion or conclusions.

2. The memorandum must include the following statement:

Actuarial methods, considerations and analyses used in the preparation of this memorandum

conform to the appropriate Standards of Actuarial Practice adopted by the Actuarial Standards Board, which standards form the basis for this memorandum.

Sec. 14. NAC 681B.145, 681B.185, 681B.190, 681B.195, 681B.200 and 681B.205 are hereby repealed.