

PROPOSED RULE 64
ACTUARIAL OPINION AND MEMORANDUM
(Single-State)

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SECTION 1. Purpose

The purpose of this Rule is to prescribe:

A. Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with Ark. Code Ann. § 23-84-112(b), and for memoranda in support thereof;

B. Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from Ark. Code Ann. § 23-84-112(b) per Section 6 of this Rule; and

C. Guidelines applicable to the appointment of an Appointed Actuary.

SECTION 2. Authority

This Rule is issued pursuant to the authority vested in the Arkansas Insurance Commissioner under Ark. Code Ann. § 23-84-113, § 23-61-108, and the Arkansas Administrative Procedures Act, §§ 25-15-201, *et seq.*

SECTION 3. Scope and Application

This Rule shall apply to all licensed life and/or accident and health insurance companies and fraternal benefit societies domiciled in Arkansas and doing business only in Arkansas and to

all licensed life and/or accident and health insurance companies and fraternal benefit societies which are domiciled in Arkansas and authorized to reinsure life insurance, annuities, or accident and health insurance business only in this State. The actuarial opinion required by this Rule shall apply to all business in force of the companies, including but not limited to individual and group life and/or accident and health insurance plans. Rule 64A applies to life insurance companies and fraternal benefit societies that are licensed in or do business in multiple states including Arkansas, regardless of the company or society's state of domicile.

Except with respect to companies which are exempt pursuant to Section 6 of this Rule, each company's statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 8 of this Rule, and a memorandum in support thereof in accordance with Section 9 of this Rule, shall be required each year. Exempt companies must file a statement of actuarial opinion pursuant to Section 7 of this Rule.

A company exempt pursuant to Section 6 of this Rule from filing an opinion in accordance to Section 8 of this Rule which has written and/or assumed only life and/or deferred annuity business and/or deposit type funds, has invested assets greater than one hundred ten percent (110%) of the face value of all inforce business, total face value of inforce business is less than five million dollars (\$5,000,000), and has written or assumed no new business in the current and preceding two (2) years, may apply in writing to the Commissioner for an exemption from compliance with this Rule. At the Commissioner's discretion, an exemption from compliance with this Rule may be granted after review of the application.

An inactive company with no reserves, no premium written, and no in force business may, in lieu of the Actuarial Opinion for the calendar year, submit an affidavit made under oath of an officer of the insurer that specifies such. The affidavit should be included on or attached to Page 1 of the annual statement for each year.

Notwithstanding the foregoing, the Commissioner may require any company otherwise exempt pursuant to this Rule to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with Sections 8 and 9 of this Rule if, in the opinion of the Commissioner, an asset adequacy analysis is necessary with respect to the company.

SECTION 4. Definitions

A. "Actuarial Opinion":

1. With respect to Section 8, 9 or 10, the opinion of an Appointed Actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with Section 8 of this Rule and with presently accepted Actuarial Standards of Practice; and

2. With respect to Section 7, the opinion of an Appointed Actuary regarding the calculation of reserves and related items, in accordance with Section 7 of this Rule and with those presently accepted Actuarial Standards which specifically relate to this opinion.

B. “Actuarial Standards Board” is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

C. “Annual Statement” means that statement required by Ark. Code Ann. § 23-63-216 of the Insurance Code to be filed by the company with the office of the Commissioner annually.

D. “Appointed Actuary” means any individual who is appointed or retained in accordance with the requirements set forth in Section 5(C) of this Rule to provide the actuarial opinion and supporting memorandum as required by Ark. Code Ann. § 23-84-112(b).

E. “Asset Adequacy Analysis” means an analysis that meets the standards and other requirements referred to in Section 5(D) of this Rule.

F. “Commissioner” means the Insurance Commissioner of this State.

G. “Company” means a life and/or accident and health insurance company, fraternal benefit society or reinsurer that is domiciled in Arkansas and does business only in Arkansas.

H. “NAIC” means the National Association of Insurance Commissioners.

I. “Non-Investment Grade Bonds” means those designated as Classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office.

J. “Qualified Actuary” means any individual who meets the requirements set forth in Section 5(B) of this Rule. Due to the provisions of Ark. Code Ann. § 23-84-112(d)(5), the term “qualified actuaries” as defined in Rule 16, “Actuaries,” shall not be deemed to be applicable to and shall not apply to “Qualified Actuaries,” as defined herein, for purposes of complying with the provisions of this Rule.

K. “Standard Valuation Law” means the law codified at Ark. Code Ann. §§ 23-84-101, *et seq.*

SECTION 5. General Requirements

A. Submission of Statement of Actuarial Opinion

1. There is to be included on or attached to Page 1 of the annual statement for each year, 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 Section 8 of this Rule. However, any company exempted pursuant to Section 6 of this Rule from submitting a statement of actuarial opinion in accordance with Section 8 of this Rule 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 Section 7 of this Rule.

2. If in a previous year a company provided a statement of actuarial opinion in accordance with Section 7 of this Rule, and in a current year fails the exemption criteria of Section 6(C)(1), 6(C)(2) or 6(C)(5) to again provide an actuarial opinion in accordance with Section 7, the statement of actuarial opinion in accordance with Section 8 shall not be required until August 1 following the preceding December 31 date of the annual statement unless otherwise required to provide an actuarial opinion in accordance with Section 6(C)(5). In this instance, the company shall provide a statement of actuarial opinion in accordance with Section 7 with appropriate qualifications noting the intent to subsequently provide a statement of actuarial opinion in accordance with Section 8.

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

4. Pursuant to the provisions of Ark. Code Ann. § 23-84-112(d)(8), any memoranda or other material provided to the Commissioner in support of the actuarial opinion shall be kept confidential and shall only be released under the circumstances described specifically in Ark. Code Ann. § 23-84-112(d)(8).

B. 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 such 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:
 - a. Violated any provision of, or any obligation imposed by, the Arkansas Insurance Code or other law in the course of his or her dealings as a Qualified Actuary;
 - b. Been found guilty of fraudulent or dishonest practices;
 - c. Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as a Qualified Actuary;
 - d. Submitted to the Commissioner during the past five (5) years pursuant to this Rule an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this Rule including standards set by the Actuarial Standards Board; or
 - e. Resigned or been removed as an actuary within the past five (5) 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; and
5. Has not failed to notify the Commissioner of any action taken by any regulatory authority of any other state similar to that under Paragraph (4) above.

C. Appointed Actuary.

An “Appointed Actuary” is a Qualified Actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this Rule, either directly by or by the authority of

the board of directors through an executive officer of the company other than the Qualified Actuary. The company shall give the Commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and 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 set forth in Subsection B. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Commissioner timely written notice in the event the actuary ceases to be appointed or retained as an Appointed Actuary or to meet the requirements set forth in Subsection B. If any person appointed or retained as an Appointed Actuary replaces a previously Appointed Actuary, the notice shall so state and give the reasons for replacement.

D. Standards for Asset Adequacy Analysis

The asset adequacy analysis required by this Rule:

1. 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 Rule, which standards are to form the basis of the statement of actuarial opinion in accordance with Section 8 of this Rule; and
2. Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

E. Liabilities to be covered

1. Under authority of Ark. Code Ann. § 23-84-112, 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 I 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 set forth in the Standard Valuation Law, Ark. Code Ann. §§ 23-84-101, *et seq.*, the company shall establish the additional reserve.
3. Additional reserves established under paragraph (2) 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.

SECTION 6. Required Opinions

A. General

Every Arkansas-domiciled company doing business only in this State shall annually submit the opinion of an Appointed Actuary as provided for by this Rule, in accordance with Ark. Code Ann. § 23-84-112, except as waived under Section 3 of this Rule. The type of opinion

submitted shall be determined by the provisions set forth in this Section 6 and shall be in accordance with the applicable provisions in this Rule.

B. Company Categories

For purposes of this Rule, 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 shall consist of those companies whose admitted assets do not exceed twenty million dollars (\$20,000,000);
2. Category B shall consist of those companies whose admitted assets exceed twenty million dollars (\$20,000,000) but do not exceed one hundred million dollars (\$100,000,000);
3. Category C shall consist of those companies whose admitted assets exceed one hundred million dollars (\$100,000,000) but do not exceed five hundred million dollars (\$500,000,000); and
4. Category D shall consist of those companies whose admitted assets exceed five hundred million dollars (\$500,000,000).

C. Exemption Eligibility Tests

1. Any Category A company that, for any year, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with Section 8 of this Rule for the year in which these criteria are met. The ratios in (a), (b) and (c) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:

- a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10;
- b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30;
- c. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50; and
- d. The Analyst Team System for the NAIC has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (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.

2. Any Category B company that, for any year, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with Section 8 of this Rule for the year in which the criteria are met. The ratios in (a), (b) and (c) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable:

- a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07;
- b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40;

c. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50; and

d. The Analyst Team System for the NAIC has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (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.

3. Any Category A or Category B company that meets all of the criteria set forth in Paragraph 1 or 2 of this subsection, whichever is applicable, is exempt from submission of a statement of actuarial opinion in accordance with Section 8 of this Rule unless the Commissioner specifically indicates to the company that the exemption is not to be taken.

4. Any Category A or Category B company that, for any year is not exempted under Paragraph (3) of this subsection shall be required to submit a statement of actuarial opinion in accordance with Section 8 of this Rule for any year for which it is not exempt.

5. Any Category C company that, after submitting an opinion in accordance with Section 8 of this Rule, meets all of the following criteria shall not be required, unless required in accordance with Paragraph 6 below, to submit a statement of actuarial opinion in accordance with Section 8 of this Rule more frequently than every third year. Any Category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with Section 8 of this Rule for that year. The ratios in (a), (b) and (c) below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05;

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

c. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50; and

d. The Analyst Team System for the NAIC has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (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.

6. Any company which is not required by this Section 6 to submit a statement of actuarial opinion in accordance with Section 8 of this Rule for any year shall submit a statement of actuarial opinion in accordance with Section 7 of this Rule for that year unless, as provided for by the second paragraph of Section 3 of this Rule, the Commissioner requires a statement of actuarial opinion in accordance with Section 8 of this Rule.

D. Large Companies

Every Category D company shall submit a statement of actuarial opinion in accordance with Section 8 of this Rule.

SECTION 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 the following:

1. A paragraph identifying the Appointed Actuary and his or her qualifications;
2. A regulatory authority paragraph stating that the company is exempt pursuant to this Rule 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 Section 7 of this Rule;
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; and
4. An opinion paragraph expressing the Appointed Actuary's opinion as required by Ark. Code Ann. § 23-84-112.

B. Recommended Language

The following language provided is that which typically 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 should use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in Section 7.

1. The opening paragraph should indicate the Appointed Actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read 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 Director of said insurer to render this opinion as stated in the letter to the Commissioner 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 companies.

For a consulting actuary, the opening paragraph of the actuarial opinion should contain a statement such as the following:

I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert 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 [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.

2. The regulatory authority paragraph should include a statement such as the following:

Said company is exempt pursuant to Rule 64 of the Arkansas 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 7 of the Rule.

3. The scope paragraph should contain a sentence such as the following:

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, [].

The paragraph should list items and amounts with respect to which the Appointed Actuary is expressing an opinion. The list should include, but not be necessarily limited to:

- a. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 5;
- b. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 6;
- c. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 7; and
- d. Policy and contract claims--liability end of current year included in Exhibit 8, Part I.

4. If the Appointed Actuary has examined the underlying records, the scope paragraph should also include the following:

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.

5. 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, the scope paragraph should include a statement such as one of the following:

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. (See accompanying affidavit by a company officer.) 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

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 so certifying shall follow the form indicated by Subsection E.

6. The opinion paragraph should include a statement such as:

In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:

- (a) Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this section;
- (b) 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;
- (c) Meet the requirements of the Insurance Law and rules of the state of Arkansas and are at least as great as the minimum aggregate amounts required by this state;
- (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 exceptions as noted below; and
- (e) Include provision for all actuarial reserves and related statement items which ought to be established.
- (f) 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.

7. The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this Section 7 and shall include the following:

This opinion is provided in accordance with Section 7 of Arkansas Insurance Department Rule 64. 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 7 of Arkansas Insurance Department Rule 64 is confirmed as follows:

(a) The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (Section 6 (C)).

(b) The ratio of the sum of the reserves and liabilities for annuities and deposits to the excess of the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (Section 6 (C)).

(c) The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.

(d) To my knowledge, the NAIC Examiner Team has not designated the company as a first priority company in any of the two (2) calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two (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 its state of domicile.

8. If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion. Include one of the following, whichever is applicable:

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 changes 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.)”

C. Assumption 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 this paragraph.

D. Adverse Opinions

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

E. Reliance on Information 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, there should be attached to the opinion the statement of a company officer or accounting firm who prepared such 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 are summaries of policies and contracts in force as of December 31, [], 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

Section 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) A paragraph identifying the Appointed Actuary and his or her qualifications (see Subsection B(1));
- (2) 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 Subsection B(2)) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;
- (3) 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.*, anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection B(3)), supported by a statement of each such expert in the form prescribed by Subsection E; and
- (4) An opinion paragraph expressing the Appointed Actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection B(6)).
- (5) One or more additional paragraphs will be needed in individual company cases as follows:
 - (a) If the Appointed Actuary considers it necessary to state a qualification of his or her opinion;
 - (b) If the Appointed Actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;
 - (c) If the Appointed Actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release; or

- (d) If the Appointed Actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

B. Recommended Language.

The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. 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 should use language that clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

- (1) 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 Commissioner 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 Commissioner 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.

- (2) 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, []. 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)
Exhibit 5					
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 5 (Page 3, Line 1)					
Exhibit 6					
A Active Life Reserve					
B Claim Reserve					

Total Exhibit 6 (Page 3, line 2)					
Exhibit 7					
Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 7 (Page 3, Line 3)					
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					

IMR (General Account, Page ___ Line ___)	
(Separate Accounts, Page ___ Line ___)	
AVR (Page ___ Line ___)	(c)
Net Deferred and Uncollected Premium	

Notes:

(a) *The additional actuarial reserves are the reserves established under Paragraph (2) of Section 5E.*

(b) *The Appointed Actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 5D of this Rule, by means of symbols that should be defined in footnotes to the table.*

(c) *Allocated amount of Asset Valuation Reserve (AVR).*

- (3) If the Appointed Actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as:

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” or “certain critical aspects of the analysis performed in conjunction with forming my opinion”], as certified in the attached statement. I have reviewed the information relied upon for reasonableness.

A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by Subsection E.

- (4) 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.

- (5) 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, 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 in the form prescribed by Subsection E.

- (6) The opinion paragraph should include a statement such as:

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

- (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 Insurance Law and Rule of the state Arkansas; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
- (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 exceptions noted below); and
- (e) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related 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 the assets, and the considerations anticipated to be received and retained under the 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 changes 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 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

Date

C. Assumptions 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 this Section 6.

D. 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 reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

E. 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 a format similar to that set forth in Section 7(B)(5). In addition, the persons on whom the Appointed Actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

Section 9. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

A. General

- (1) In accordance with Ark. Code Ann. § 23-84-112, the Appointed Actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the Commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance 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 his or her own memorandum, memoranda prepared

and signed by other actuaries who are qualified within the meaning of Section 5(B) of this Rule, with respect to the areas covered in such memoranda, and so state in their memoranda.

- (3) If the Commissioner requests a memorandum and no such 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 Rule, the Commissioner 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 Commissioner.
- (4) 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 Commissioner; 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 Commissioner 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 Commissioner pursuant to the statute governing this Rule. 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 Rule for any one of the current year or the preceding three (3) years.
- (5) In accordance with Ark. Code Ann. § 23-84-112, the Appointed Actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. 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.

B. Details of the Memorandum Section Documenting Asset Adequacy Analysis

When an actuarial opinion is provided under Section 8, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Section 5D of this Rule and any additional standards under this Rule. It shall specify:

- (1) For reserves:

- (a) Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the Appointed Actuary deems significant;
- (b) Source of liability in force;
- (c) Reserve method and basis;
- (d) Investment reserves;
- (e) Reinsurance arrangements;
- (f) 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
- (g) 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.

- (2) For assets:
 - (a) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
 - (b) Investment and disinvestment assumptions;

- (c) Source of asset data;
- (d) Asset valuation bases; and
- (e) 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.

- (3) For the analysis basis:
 - (a) Methodology;
 - (b) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
 - (c) 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);
 - (d) 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
 - (e) Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;
- (4) Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis;

- (5) Summary of results; and
- (6) Conclusions.

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;
 - (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.

D. Conformity to Standards of Practice.

The memorandum shall include the following 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.”

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 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.

F. 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.

Section 10. Additional Consideration for Analysis

A. Aggregation

For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with Section 8 of the Rule, reserves and assets may be aggregated by either of the following methods:

1. 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 in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated; or

2. 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:

a. Are developed using consistent economic scenarios; or
b. Are subject to mutually independent risks, *i.e.*, 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.

In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of method (1), (2)(a) or (2)(b) above, 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, thereafter called “specified reserves.” A particular asset or portion thereof supporting a group of specified reserves cannot support any other 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 shall not exceed the annual statement value of the specified reserves, except as provided in Subsection (C) below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.

C. Required Interest Scenarios

For the purpose of performing the asset adequacy analysis required by this Rule, the Qualified Actuary is expected to follow standards adopted by the Actuarial Standards Board. Nevertheless, the Appointed Actuary must consider in the analysis the effect of at least the following interest rate scenarios:

1. Level with no deviation;
2. Uniformly increasing over ten (10) years at a half percent per year and then level;
3. Uniformly increasing at one percent per year over five (5) years, and then uniformly decreasing at one percent per year to the original level at the end of ten (10) years and then level;
4. An immediate increase of three percent (3%) and then level;
5. Uniformly decreasing over ten (10) years at a half percent per year and then level;
6. Uniformly decreasing at one percent per year over five (5) years and then uniformly increasing at one percent per year to the original level at the end of ten (10) years and then level; and
7. An immediate decrease of three percent (3%) and then level.

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

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. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rate should be consistent for all interest rate scenarios.

D. 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.

SECTION 11. Disciplinary Actions

The Commissioner may impose sanctions on companies which have failed to comply with the provisions of this Rule in completing the annual statement with the appropriate actuarial certification and opinion, or in failing to file the statement of opinion when eligible for any exemptions under this Rule. Such sanctions shall include, but not be limited to, those the Commissioner may impose on companies for failure to file, or failure to file a complete, annual statement under Ark. Code Ann. § 23-63-216, including license suspension, revocation, and monetary fines or penalties.

Companies and actuaries filing false statements of financial conditions in connection with the actuarial opinions required by this Rule, filing false or fraudulent actuarial opinions with the Commissioner, or knowingly making a false entry in these actuarial opinions in the reports or annual statements of the companies shall be deemed to have committed a trade practice violation under the Trade Practices Act, Ark. Code Ann. §§ 23-66-201, *et seq.*, and this Rule in addition to other applicable provisions of Arkansas laws and Rules and shall be subject to administrative proceedings culminating in possible cease and desist orders, monetary penalties, and/or license suspensions or revocations.

SECTION 12. Effective Date

The provisions of this Rule shall be effective on January 1, 2009. This Rule shall take effect for annual statements for the year 2009 and filed with the Commissioner on or before March 15, 2010.

SECTION 13. Severability

Any section or provision of this Rule held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this Rule.