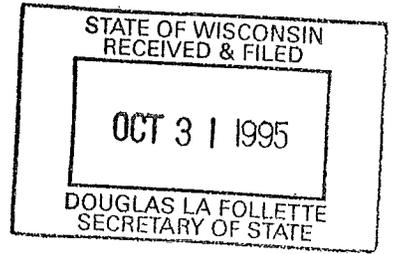


CR 95-129



STATE OF WISCONSIN )  
OFFICE OF THE COMMISSIONER OF INSURANCE )

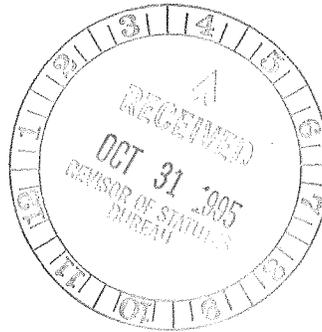
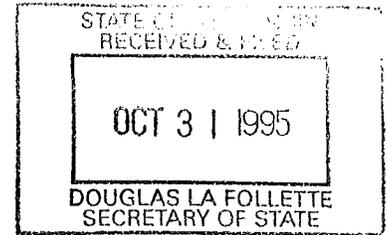
I, Josephine W. Musser, Commissioner of Insurance and custodian of the official records of this Office, certify that the attached rule-making order affecting chapter Ins 41 and subchapters. IV, V and VI of chapter Ins. 50 and sections Ins 50.02 (1) (b), (4) (d), 52.03 (1) (intro.) and (c)., (2), (4) and (5) and 52.05 (4) (b), Wis. Adm. Code, relating to changes in the rules governing financial regulation of insurers and reinsurers and risk retention and purchasing groups, was issued by this Office on October 31, 1995.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, on October 31, 1995.

*Josephine W. Musser*  
Josephine W. Musser  
Commissioner of Insurance





ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING AND CREATING RULES

To amend Ins 50.02 (1) (b), 52.02 (4) (d), 52.03 (1) (intro.) and (b) and (2) and 52.05 (4) (b), to renumber and amend Ins 52.03 (1) (c), and to create s. Ins 52.03 (4) and (5), ch. Ins 41 and subchs. IV, V, and VI of ch. 50, relating to changes in rules governing financial regulation of insurers and reinsurers and risk retention and purchasing groups.

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ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (2) and (3), 601.42, 601.465, 601.43, 623.02, 623.03, 623.04, 623.06, 623.11, 623.21 and 627.23, and chs. 617, 618 and 645, Stats.

Statutes interpreted: ss. 601.41, 601.42, 601.465, and 627.05, and chs. 617, 618, 623 and 645, Stats.

This rule requires domestic insurers to report material transactions, requires life insurers to annually file an actuarial opinion regarding the adequacy of reserves, and makes several other changes:

## DOMESTIC INSURERS REQUIRED TO DISCLOSE MATERIAL TRANSACTIONS

The rule requires all domestic insurers to file a report with the commissioner disclosing material transactions involving assets or reinsurance. The report must be filed within fifteen days of the end of the month in which the transaction occurs and must be filed with both the Office and the National Association of Insurance Commissioners ("NAIC"). Certain insurers and HMOs are exempt from filing the report with the NAIC. The report is confidential unless the commissioner determines the public interest requires its release. An asset acquisition or disposition is material if it involves more than 5% of the insurer's reported admitted assets and is not in the ordinary course of business. A reinsurance transaction is material for property and casualty or health business if it involves more than 50% of ceded premium or 50% of ceded reserves and for life business if it involves more than 50% of the reserve credit for business ceded. In addition, change to an unauthorized reinsurer or changes in collateral requirements for reinsurance are material transactions.

## ACTUARIAL OPINION

The rule requires every life insurance company doing business in this state to submit annually to the commissioner an actuary's opinion as to whether the company's reserves are computed accurately and in compliance with requirements under the law. The actuary preparing the opinion must prepare a memorandum which supports the opinion. The memorandum is confidential and must be submitted to the commissioner only if the commissioner so requests.

An actuarial opinion and memorandum rule is also included which provides instructions for the preparation of those documents. This rule permits certain insurers, based on size and financial solidity criteria, to

file an actuarial opinion which does not include an asset adequacy analysis. The rule also provides for criteria for appointment of an actuary.

#### RISK RETENTION AND RISK PURCHASING GROUPS

The rule places in the rules the existing requirement that risk retention groups and risk purchasing groups appoint the commissioner as attorney for the purpose of service of process.

#### AUDIT REPORTS AND CREDIT FOR REINSURANCE

This rule makes the following changes in rules governing the financial regulation of insurers and reinsurers:

1. It makes it clear that the current rule on annual audit reports, which took effect August 1, 1993, exempts a company with less than \$1,000,000 of assumed premiums nationwide only if it also has less than \$1,000,000 of direct premiums written nationwide. This conforms with the NAIC annual statement instructions which insurers are required to use in Wisconsin.

2. The rule permitting a licensed insurer to take credit for ceded reinsurance specifies a number of conditions the insurer must comply with. One condition deals with conditions for compliance by the reinsurer. This rule modifies one of those conditions to acknowledge that, as of January 1, 1994, Lloyds of London began admitting incorporated, as well as individual unincorporated underwriters, to membership. This revision ensures that Lloyds will continue to be considered an authorized reinsurer in Wisconsin.

3. The rule revises the rules governing an insurer taking credit for reinsurance to make it clear that certain conditions apply only to reinsurance ceded to unauthorized reinsurers. These conditions require the reinsurer to agree to jurisdiction of courts in the U.S. and to designate the commissioner as attorney for service of process. The rule also makes it clear that insurers may not take credit for reinsurance in excess of the gross reserves established for the ceded business.

The rule also corrects an erroneous cross-reference.

The rule will not have a fiscal impact on either the state or local government.

SECTION 1. Chapter Ins 41 is created to read:

CHAPTER 41

DOMESTIC INSURERS REQUIRED TO DISCLOSE MATERIAL TRANSACTIONS

41.01 DOMESTIC INSURERS REQUIRED TO FILE REPORTS OF MATERIAL TRANSACTIONS.

(1) Domestic insurers shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements unless such acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval or information purposes pursuant to other provisions of chs. 600 to 645, Stats.

(2) The report required in subs. (1) is due within fifteen days after the end of the calendar month in which any of the transactions which are required to be reported occur.

(3) A domestic insurer shall file a complete copy of any report required under this section, including any exhibits or other attachments, with the commissioner. A domestic insurer, other than an insurer organized under ch. 612, Stats., a health maintenance organization insurer, limited services health organization, or a gift annuity insurer, shall also file a copy of the report and attachments with the National Association of Insurance Commissioners.

(4) All reports obtained by or disclosed to the commissioner under this chapter, shall be given confidential treatment under s. 601.465, Stats., and shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states unless the commissioner determines that the interest of policyholders, shareholders or

the public will be served by the publication or release of the information, in which event the commissioner may publish or release all or any part of the information in the manner the commissioner determines is appropriate.

Ins 41.05 ACQUISITIONS AND DISPOSITIONS OF ASSETS. (1) An acquisition or disposition of assets is not required to be reported under s. 41.01 if the acquisition or disposition is not material. For purposes of this chapter a material acquisition, or the aggregate of any series of related acquisitions during any thirty-day period, or disposition, or the aggregate of any series of related dispositions during any thirty-day period, is one that is nonrecurring and not in the ordinary course of business and involves more than 5% of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.

(2) Asset acquisitions subject to this chapter include every purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for this purpose.

(3) Asset dispositions subject to this chapter include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

(4) The following information is required to be disclosed in any report of a material acquisition or disposition of assets under this chapter:

- (a) Date of the transaction.
- (b) Manner of acquisition or disposition.
- (c) Description of the assets involved.
- (d) Nature and amount of the consideration given or received.

(e) Purpose of, or reason for, the transaction.  
(f) Manner by which the amount of consideration was determined.  
(g) Gain or loss recognized or realized as a result of the transaction.

(h) Name of the person from whom the assets were acquired or to whom they were disposed.

(5) Insurers are required to report material acquisitions and dispositions under this chapter on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus.

41.10 NONRENEWALS, CANCELLATIONS OR REVISIONS OF CEDED REINSURANCE AGREEMENTS.

(1) MATERIALITY AND SCOPE. (a) No nonrenewals, cancellations or revisions of ceded reinsurance agreements need be reported under s. Ins 41.01 if the nonrenewals, cancellations or revisions are not material. For purposes of this chapter, a material nonrenewal, cancellation or revision is one that affects:

1. For property and casualty business, including accident and health business written by a property and casualty insurer:

a. More than 50% of an insurer's ceded written premium; or

b. More than 50% of the insurer's total ceded indemnity and loss adjustment reserves.

2. For life, annuity and accident and health business, more than 50% of the total reserve credit taken for business ceded, on an annualized basis as indicated in the insurer's most recently filed statutory statement.

3. For either a property and casualty or life, annuity, and accident and health business, either of the following events shall constitute a material revision which shall be reported:

a. An authorized reinsurer representing more than 10% of a total cession is replaced by one or more unauthorized reinsurers; or

b. Previously established collateral requirements have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than 10% of a total cession.

(b) No filing is required under this chapter if:

1. For property and casualty business, including accident and health business written by a property and casualty insurer the insurer's total ceded written premium represents, on an annualized basis, less than 10% of its total written premium for direct and assumed business; or

2. For life, annuity and accident and health business the total reserve credit taken for business ceded represents, on an annualized basis, less than 10% of the statutory reserve requirement prior to any cession.

(2) The following information is required to be disclosed in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements:

(a) Effective date of the nonrenewal, cancellation or revision.

(b) The description of the transaction with an identification of the initiator of the transaction.

(c) Purpose of, or reason for, the transaction.

(d) If applicable, the identity of the replacement reinsurers.

(3) Insurers are required to report all material nonrenewals, cancellations or revisions of ceded reinsurance agreements on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus.

Ins 41.90 OTHER REQUIREMENTS. This chapter is in addition to, and does not supersede or substitute for, other disclosure or filing requirements, including, but not limited to, s. 611.78, Stats., and ch. 617, Stats.

SECTION 2. Ins 50.02 (1) (b) is amended to read:

Ins 50.02 (1) (b) Assumed premiums nationwide of less than \$1,000,000 under reinsurance contracts or treaties and direct premiums written nationwide of less than \$1,000,000.

SECTION 3. Subchs. IV, V and VI of ch Ins 50 are created to read:

CHAPTER 50

SUBCHAPTER IV

ACTUARIAL OPINION

Ins 50.60 DEFINITIONS. In this chapter, "qualified actuary" means a member in good standing of the American academy of actuaries unless disqualified by a standard or determination of the commissioner.

Ins 50.65 ACTUARIAL OPINION REQUIRED. (1) For each year ending on or after December 31, 1996, every life insurance company doing business in this state shall submit to the commissioner, with its annual statement due by March 1 of the following year, an opinion by a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner satisfy all of the following:

- (a) They are computed appropriately.
- (b) They are based on assumptions that satisfy contract provisions.
- (c) They are consistent with prior reported amounts.
- (d) They comply with the applicable laws of this state.

(2) The opinion under sub. (1) shall be in the form and contain the information required by the commissioner.

(3) (a) Every life insurance company not exempted under s. Ins 50.76 shall include with the opinion required under sub. (1) the opinion of the qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company 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, make adequate provision for the company's obligations under the policies and contracts, including but not limited to, the benefits under and expenses associated with the policies and contracts. The commissioner may allow a transition period for an insurance company to establish any higher reserves that the qualified actuary determines are necessary to make adequate provision for the company's obligations under the policies and contracts.

(b) An insurance company that is required to submit an opinion under par. (a) shall have prepared by the qualified actuary who renders the opinion and memorandum in support of the opinion under par. (a). The memorandum shall be in the form, and provide the information, required by the form specified by the commissioner. The insurance company shall provide the memorandum to the commissioner, at the commissioner's request, for the commissioner's examination. After examination, the commissioner may return the memorandum to the insurance company.

(c) If an insurance company fails to provide a supporting memorandum to the commissioner upon request within the period specified, or if the commissioner determines that the supporting memorandum provided by an insurance company is otherwise unacceptable, the commissioner may retain a qualified actuary at the expense of the insurance company to review the opinion required under par. (a) and the basis for the opinion and to prepare supporting memorandum as the commissioner requires.

(4) The following provisions apply to an opinion required under sub. (1) or (2):

(a) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner.

(b) The opinion shall be based on standards adopted from time to time by the actuarial standards board established by the American academy of actuaries and on such additional standards as the commissioner may prescribe.

(c) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(5) An insurer which violates this chapter or an insurer or actuary which submits an opinion or memorandum which includes a misrepresentation is subject to the penalties specified under ch. 601, Stats.

(6) (a) Any memorandum in support of, and any other material provided by an insurance company to the commissioner in connection with, an opinion required under this section is subject s. 601.465, Stats.

(b) The commissioner may release any such memorandum or other material with the written consent of the insurance company, or to the American academy of actuaries upon its request if the memorandum or other material is required for professional disciplinary proceedings and if the request sets forth procedures that are satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

Ins 50.67 RESERVES. (1) An insurance company's aggregate reserves for all policies, contracts and benefits may not be less than the aggregate reserves determined by a qualified actuary in an opinion under this chapter to be necessary to make adequate provision for the company's obligations under the policies and contracts.

(2) For the purpose of s. 623.06 (6), Stats., holding any additional reserves that a qualified actuary, in an opinion under this chapter determined to be necessary to make adequate provision for the company's obligations under the policies and contracts shall not be considered the adoption of a higher standard of valuation.

Ins 50.68 RELIANCE ON ACTUARY OPINION. An actuarial opinion which is issued by a qualified actuary and required under this subchapter and subch. V is solely for the benefit of the insurer which is the subject of the opinion, the commissioner and the office. It is not for the benefit of any other person and is therefore not to be relied upon by any other person unless reliance is induced by fraud or wilful misconduct.

SUBCHAPTER V

ACTUARIAL OPINION AND MEMORANDUM REGULATION

Ins 50.70 PURPOSE. The purpose of this rule is to prescribe:

(1) Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with subch. IV and ch. 623, Stats., and for memoranda in support of such an opinion.

(2) Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from s. Ins 50.65 (3); and

(3) Rules applicable to the appointment of an appointed actuary.

Ins 50.71 AUTHORITY. This rule is issued pursuant to the authority vested in the commissioner under s. 601.42, 601.43 601.465 and ch. 623, Wis. Stats. This rule will take effect for annual statements for the year 1996.

Ins 50.72 SCOPE. (1) This subchapter 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 which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state. This subchapter shall be applicable to all annual statements filed with the office of the commissioner of insurance after the effective date of this subchapter. Except with respect to companies which are exempted pursuant to s. Ins 50.76, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with s. Ins 50.78, and a memorandum in support thereof in accordance with s. Ins 50.79, shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to s. Ins 50.77.

(2) Notwithstanding sub. (1), the commissioner may require any company otherwise exempt pursuant to this subchapter to submit a statement of

actuarial opinion and to prepare a memorandum in support thereof in accordance with ss. Ins 50.78 and 50.79 if, in the opinion of the commissioner, an asset adequacy analysis is necessary with respect to the company.

Ins 50.73 DEFINITIONS. (1) "Actuarial opinion" means:

(a) With respect to s. Ins 50.78, 50.79 or 50.80, 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 s. Ins 50.78 and with presently accepted actuarial standards;

(b) With respect to s. Ins 50.77, the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with s. Ins 50.77 and with those presently accepted actuarial standards which specifically relate to this opinion.

(2) "Actuarial standards board" is the board established by the american academy of actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means that statement required by s. Ins 50.20 to be filed by the company annually.

(4) "Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in s. Ins 50.75 (3) to provide the actuarial opinion and supporting memorandum as required by subch. IV of this chapter and ch. 623, Stats.

(5) "Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in s. Ins 50.75 (4). It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

(6) "Commissioner" means the commissioner of insurance of this state.

(7) "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of subchapter.

(8) "Non-investment grade bonds" are those designated as classes 3, 4, 5 or 6 by the National Association of Insurance Commissioner's securities valuation office.

(9) "Qualified Actuary" means any individual who meets the requirements set forth in s. Ins 50.75 (2)

Ins 50.75 GENERAL REQUIREMENTS. (1) SUBMISSION OF STATEMENT OF ACTUARIAL OPINION. (a) There is to be included on or attached to Page 1 of the annual statement for each year beginning with 1996 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 s. Ins 50.78; provided, however, that any company exempted pursuant to s. Ins 50.76 from submitting a statement of actuarial opinion in accordance with s. Ins 50.78 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 s. Ins 50.77.

(b) If in the previous year a company provided a statement of actuarial opinion in accordance with s. Ins 50.77, and in the current year fails the exemption criteria of s. Ins 50.76 (3) (a), (b) or (e) to again provide an actuarial opinion in accordance with s. Ins 50.77, the statement of actuarial opinion in accordance with s. Ins 50.78 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with s. Ins 50.77 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with s. Ins 50.78.

(c) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

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

(2) QUALIFIED ACTUARY. A qualified actuary is an individual who:

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

(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;

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

(d) 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:

1. Violated any provision of, or any obligation imposed by, an insurance law or other law in the course of his or her dealings as a qualified actuary;

2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

4. Submitted to the commissioner during the past five (5) years, pursuant to this subchapter, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this subchapter including standards set by the actuarial standards board; or

5. Resigned or been removed as an actuary within the past five 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

(e) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under par. (d).

(3) APPOINTED ACTUARY. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this subchapter; either directly by or by the authority of the board of directors through an executive officer of the company. 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 such notice that the person meets the requirements set forth in sub. (2). 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 sub. (2). 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.

(4) STANDARDS FOR ASSET ADEQUACY ANALYSIS. The asset adequacy analysis required by this subchapter:

(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 subchapter, which standards are to form the basis of the statement of actuarial opinion in accordance with s. Ins 50.78; and

(b) Shall be based on methods of analysis as are deemed appropriate for such purposes by the actuarial standards board.

(5) LIABILITIES TO BE COVERED. (a) Under authority of ch. 623, Stats., and subch. IV, the statement of actuarial opinion shall apply to all in force business on the statement date regardless of when or where issued. This includes reserves of Exhibits 8, 9 and 10, and claim liabilities in Exhibit 11, Part I and equivalent items in the separate account statement or statements.

(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 ss. 623.06 (3), (3m), (4m) and (7), Stats., and Ins 3.17, Wis. Adm. Code, the company shall establish such additional reserve.

(c) For years ending prior to December 31, 1998, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

1. December 31, 1996--The additional reserve divided by three.
2. December 31, 1997--Two times the additional reserve divided by three.

(d) Additional reserves established under par. (b) or (c) and deemed not necessary in subsequent years may be released. Any amounts released must

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.

Ins 50.76 REQUIRED OPINIONS. (1) GENERAL. In accordance with subch. IV and ch. 623, Stats., every company doing business in this state shall annually submit the opinion of an appointed actuary as provided for by this subchapter. The type of opinion submitted shall be determined by the provisions set forth in this section and shall be in accordance with the applicable provisions in this subchapter.

(2) COMPANY CATEGORIES. For purposes of this subchapter, 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:

(a) Category A shall consist of those companies whose admitted assets do not exceed \$20 million;

(b) Category B shall consist of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;

(c) Category C shall consist of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million; and

(d) Category D shall consist of those companies whose admitted assets exceed \$500 million.

(3) EXEMPTION ELIGIBILITY TEST. (a) Any Category A company that, for any year beginning with 1996, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with s. Ins 50.78 for the year in which these criteria are met. The ratios in subds. 1, 2 and 3 shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.

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

4. The Examiner Team for the National Association of Insurance Commissioners has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two 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 the state of domicile and the commissioner has so notified the chair of the National Association of Insurance Commissioners Life and Health Actuarial Task Force and the National Association of Insurance Commissioners Staff and Support Office.

(b) Any Category B company that, for any year beginning with the 1996, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with s. Ins 50.78 for the year in which the criteria are met. The ratios in subds. 1, 2 and 3 below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40.

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

4. The Examiner Team for the National Association of Insurance Commissioners has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two 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 the state of domicile and the commissioner has so notified the chair of the National Association of Insurance Commissioners Life and Health Actuarial Task Force and the National Association of Insurance Commissioners Staff and Support Office.

(c) Any Category A or Category B company that meets all of the criteria set forth in par. (a) or (b), whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with s. Ins 50.78 unless the commissioner specifically indicates to the company that the exemption is not to be taken.

(d) Any Category A or Category B company that, for any year beginning with 1996, is not exempted under par. (c) shall be required to submit a statement of actuarial opinion in accordance with s. Ins 50.78 for the year for which it is not exempt.

(e) Any Category C company that, after submitting an opinion in accordance with s. Ins 50.78, meets all of the following criteria shall not be required, unless required in accordance with par. (f) below, to submit a statement of actuarial opinion in accordance with s. Ins 50.78 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 s. Ins 50.78 for that year. The ratios in subds. 1, 2 and 3 shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

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

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

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

4. The Examiner Team for the National Association of Insurance Commissioners has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two 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 the state of domicile and the commissioner has so notified the chair of the National Association of Insurance Commissioners Life and Health Actuarial Task Force and the National Association of Insurance Commissioners Staff and Support Office.

(f) Any company which is not required by this section to submit a statement of actuarial opinion in accordance with s. Ins 50.78 for any year shall submit a statement of actuarial opinion in accordance with s. Ins 50.77 for that year unless the commissioner requires a statement of actuarial opinion in accordance with s. Ins 50.78.

(4) LARGE COMPANIES. Every Category D company shall submit a statement of actuarial opinion in accordance with s. Ins 50.78 for each year beginning with 1996.

Ins 50.77 STATEMENT OF ACTUARIAL OPINION NOT INCLUDING AN ASSET ADEQUACY ANALYSIS. (1) GENERAL DESCRIPTION. The statement of actuarial opinion required by this section shall consist of a paragraph identifying the

appointed actuary and his or her qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this subchapter 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 s. Ins 50.77; 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 an opinion paragraph expressing the appointed actuary's opinion as required by s. 623, Stats., and subch. IV.

(2) RECOMMENDED LANGUAGE. The following language provided is that which in typical circumstances 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 shall 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 this section.

(a) The opening paragraph should indicate the appointed actuary's relationship to the company:

1. For a company actuary, the opening paragraph of the actuarial opinion shall 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 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 companies."

2. For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:

"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."

(b) The regulatory authority paragraph should include a statement such as the following: "Said company is exempt pursuant to rule [insert designation] of the [name of state] 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 s. Ins 50.77."

(c) 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, [ ]."

1. The scope 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 8;

b. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9;

c. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10; and

d. Policy and contract claims--liability end of current year included in Exhibit 11, Part I.

(d) 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."

(e) 1. 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 sentence such as one of the following:

a. "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

b. "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."

2. The statement of a person certifying information referred to in subd. 1 shall follow the form prescribed by par. (j).

(f) The opinion paragraph should include the following:

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

1. Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this section;

2. 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;

3. Meet the requirements of the insurance law and rules 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.

4. 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

5. Include provision for all actuarial reserves and related statement items which ought to be established.

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."

(g) The concluding paragraph of the opinion shall document the eligibility for the company to provide an opinion as provided by this section. It shall include the following:

"This opinion is provided in accordance with s. Ins 50.77. 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 s. Ins 50.77 is confirmed as follows:

1. 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 (sub. (3)).

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (sub. (3)).

3. 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.

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

5. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone number of appointed actuary"

(h) 1. 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, and the reference in sub. (2) (f) 4 to consistency should read as follows:

". . . with the exception of the change described on page [ ] of the annual statement (or in the preceding paragraph)."

2. 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.

(i) 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 each and all reasons for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(j) 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 and 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"

Ins 50.78 STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY

ANALYSIS. (1) GENERAL DESCRIPTION. The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications;

(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 which have been analyzed for asset adequacy and the method of analysis, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, including anticipated cash flows from currently owned assets and variation in cash flows according to economic scenarios, supported by a statement of each such expert in the form prescribed by sub. (5); and

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities.

(e) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

2. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

3. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis.

4. 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.

5. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.

6. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) RECOMMENDED LANGUAGE. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. The language provided in this subsection 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 shall 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 this section.

(a) The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

1. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"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."

2. For a consulting actuary, the opening paragraph should contain a sentence 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."

(b) The scope paragraph should include a statement 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, 19[ ]. 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 (2)	Analysis Method	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
<b>Exhibit 8</b>					
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 8 Item 1, Page 3)					
<b>Exhibit 9</b>					
A. Active Life Reserve					
B. Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
<b>Exhibit 10</b>					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premium (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					

Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (2)	Analysis Method	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
<b>Exhibit 11 Part 1</b>					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3, Line 27)					
<b>TOTAL RESERVES</b>					

IMR (Page ___ Line ___)	
AVR (Page ___ Line ___)	

(bg) The tabulation in the scope paragraph required under par. (b) shall conform to the following:

1. The additional actuarial reserves are the reserves established under s. Ins 50.75 (5) (b) or (c).

2. The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in s. Ins 50.75 (4), by means of symbols which should be defined in footnotes to the table.

3. The AVR shall be the allocated amount.

(c) 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 the following:

1. "I have relied on [name], [title] for [insert description of a portion relied upon such as anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement,"

2. "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

(cg) A statement of reliance on other experts shall be accompanied by a statement by each of such experts in the form prescribed by sub. (5).

(d) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"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."

(e) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party or both, the reliance paragraph should include a sentence such as:

1. "I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary." or

2. "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 tests of the actuarial calculations as I considered necessary."

(eg) A section described in par. (e) shall be accompanied by a statement by each person relied upon of the form prescribed by sub. (5).

(f) The opinion paragraph should include all of the following:

1. "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 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 [state of domicile] 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);

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 such assets, and the considerations anticipated to be received and retained under such 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."

2. The appropriate one of the following two paragraphs:

a. 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

b. "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.)"

3. "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"

(3) ASSUMPTIONS 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 section.

(4) 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 for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(5) RELIANCE ON DATA 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 or asset oriented information or both, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

1. "I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19[ ], and other liabilities 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"; or

2. "I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion 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,  
Accounting Firm or the Security Analyst

Address of the Officer of the Company,  
Accounting Firm or the Security Analyst

Telephone Number of the Officer of the  
Company, Accounting Firm or the Security Analyst"

Ins 50.79 DESCRIPTION OF THE ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS. (1) GENERAL. (a) In accordance with subch. IV and ch. 623, Stats., the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under a s. Ins 50.78 opinion. 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 subject to automatic filing with the commissioner.

(b) 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 s. Ins 50.75 (2), with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) 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 subchapter, 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.

(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 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 subchapter and as permitted by s. 601.465, Stats. 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 subchapter for any one of the current year or the preceding three years.

(2) DETAILS OF THE MEMORANDUM SECTION DOCUMENTING ASSET ADEQUACY ANALYSIS. When an actuarial opinion under s. Ins 50.78 is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in s. Ins 50.75 (4) and any additional standards under this subchapter. It shall specify all of the following:

(a) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
2. Source of liability in force;

3. Reserve method and basis;
4. Investment reserves; and
5. Reinsurance arrangements.

(b) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
2. Investment and disinvestment assumptions;
3. Source of asset data; and
4. Asset valuation bases.

(c) Analysis basis:

1. Methodology;
2. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;
3. Rationale for degree of rigor in analyzing different blocks of business;
4. Criteria for determining asset adequacy; and
5. Effect of federal income taxes, reinsurance and other relevant factors.

(d) Summary of results.

(e) Conclusions.

(3) 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."

Ins 50.80 ADDITIONAL CONSIDERATIONS FOR ANALYSIS. (1) AGGREGATION.

For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with s. Ins 50.78, reserves and assets may be aggregated by either of the following methods:

(a) 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.

(b) 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:

1. Are developed using consistent economic scenarios; or
2. Are subject to mutually independent risks, that is 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.

(c) In the event of any aggregation, the actuary shall disclose in his or her opinion that such reserves were aggregated on the basis of method par. (a) or par. (b) 1 or 2, whichever is applicable, and describe the aggregation in the supporting memorandum.

(2) 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, referred to in this subchapter as "specified reserves." A particular asset or portion of an asset 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 sub. (3). 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.

(3) USE OF ASSETS SUPPORTING THE INTEREST MAINTENANCE RESERVE AND THE ASSET VALUATION RESERVE. (a) 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 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.

(b) 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.

(4) REQUIRED INTEREST SCENARIOS. For the purpose of performing the asset adequacy analysis required by this subchapter, 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:

(a) Level with no deviation;

(b) Uniformly increasing over ten years at a half percent per year and then level;

(c) Uniformly increasing at one percent per year over five years and then uniformly decreasing at one percent per year to the original level at the end of ten years and then level;

(d) An immediate increase of three percent and then level;

(e) Uniformly decreasing over ten (10) years at a half percent per year and then level;

(f) Uniformly decreasing at one percent per year over five 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

(g) An immediate decrease of three percent and then level.

(4g) For scenarios described under sub. (4) and other scenarios which may be used, projected interest rates for a five year Treasury Note need not be reduced beyond the point where the five year Treasury note yield would be at fifty percent 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 rates should be consistent for all interest rate scenarios.

(5) DOCUMENTATION. The appointed actuary shall retain on file, for at least seven 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.

#### SUBCHAPTER VI

#### RISK RETENTION AND PURCHASING GROUPS

Ins 50.85 RISK RETENTION GROUPS AND RISK PURCHASING GROUPS. (1) The commissioner is constituted attorney to receive service of summons, notices, orders, pleadings and all other legal process relating to any court or administrative agency in this state for all risk retention groups and risk purchasing groups as to any proceeding arising out of the business of insurance in this state, insurance activities in this state, or out-of-state activities related to policies on risks within this state.

(2) A risk retention group or risk purchasing group may not conduct an insurance business or engage in any insurance activity in this state until it registers with the commissioner and designates the commissioner as its agent for the purposes described under sub. (1). If a risk retention group or risk purchasing group fails to designate the commissioner as required by this section, the commissioner is deemed appointed as provided by sub. (1).

SECTION 4. Ins 52.02 (4) (d) is amended to read:

Ins 52.02 (4) (d) If the reinsurers are a group of including incorporated and individual unincorporated underwriters, the reinsurers maintains maintain in a trusted account funds equal to an amount that is not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group maintains a trusted surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group; the incorporated members of the

group are not engaged in any business other than underwriting as a member of the group and are subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make makes available to the commissioner or equivalent official of the ceding licensed insurer's state of domicile or entry an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants. For a domestic insurer, the certification shall be filed with the commissioner by June 1 unless otherwise approved in writing by the commissioner.

SECTION 5. Ins 52.03 (1) (intro.) and (b) are amended to read:

Ins 52.03 (1) (intro.) A Except as permitted by s. Ins 52.02 (5), a ceding domestic insurer may not take credit for reinsurance, except as permitted by s. Ins 52.02 (5), ceded to a reinsurer which does not comply with s. Ins 52.02 (1), (2), (3) and (4), unless only if the reinsurer in a written reinsurance agreement does all of the following:

(b) Designates the commissioner or a designated attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company insurer.

SECTION 6. Ins 52.03 (1) (c) is renumbered Ins 52.03 (2m) and amended to read:

Ins 52.03 (2m) For reinsurance agreements effective on or after January 1, 1980, Except as permitted by s. Ins 52.02 (5), a ceding domestic insurer may take credit for reinsurance under a reinsurance agreement effective on or after January 1, 1980, only if the agreement provides that the reinsurer assumes all credit risks of an intermediary relating to payments to an intermediary if the agreement by its terms requires payment to an intermediary.

SECTION 7. Ins 52.03 (2) is amended to read:

Ins 52.03 (2) Subsection (1) (a) and (b) ~~does do not effect affect or supersede~~ the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if the obligation is created in the agreement and complies with ch. 645, Stats.

SECTION 8. Ins 52.03 (4) and (5) are created to read:

Ins 52.03 (4) A ceding domestic insurer may take credit for reinsurance ceded only to the extent the ceding insurer has established adequate gross reserves on the business ceded.

(5) A ceding domestic insurer may not take credit for reinsurance ceded in excess of the amount of the gross reserves carried on the business, or portion of the business, ceded.

SECTION 9. Ins 52.05 (4) (b) is amended to read:

Ins 52.05 (4) (b) Also contains the provision the trust agreement is required to have under sub. (2) ~~(k)~~ (L), except the reinsurance agreement is not required to also have that provision if the reinsurance agreement covers only risks other than life, annuities or accident and health.

SECTION 10. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 31st day of October 1995.

  
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Randy Blumer  
Deputy Commissioner