Sec. 38a-459-17. Actuarial opinion and memorandum

(a) An insurance company that maintains any separate accounts governed by sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies shall submit an actuarial opinion rendered by the valuation actuary to the insurance commissioner annually by March 1 showing the status of the accounts as of the preceding December 31. The actuarial opinion shall be supported by a confidential actuarial memorandum prepared by the valuation actuary rendering the opinion. The valuation actuary may be either the appointed actuary of the insurance company or, alternatively, a qualified actuary designated by the appointed actuary to be the valuation actuary for the purpose of sections 38a-459-10 to 38a-459-20, inclusive, of the Regulations of Connecticut State Agencies.

(b) The actuarial memorandum required by subsection (a) of this section is a memorandum as set forth in subdivision (3) of section 38a-78(c) of the Connecticut General Statutes. The actuarial memorandum may include any matter required by section 38a-78 of the Connecticut General Statutes and is subject to the confidentiality protections of subdivision (7) of section 38a-78(c) of the Connecticut General Statutes.

(c) The actuarial memorandum in support of the opinion, and any other material provided by the insurance company to the insurance commissioner in connection therewith, is deemed to be confidential to the same extent, and under the same conditions, as the actuarial memorandum required by section 38a-78 of the Connecticut General Statutes.

(d) The actuarial memorandum shall be made available for examination by the insurance commissioner upon the commissioner's request, but shall be returned to the insurance company after an examination and shall not be considered a record of the insurance department or subject to automatic filing with the insurance commissioner.

(e) Except in cases of fraud or willful misconduct, the valuation actuary shall not be liable for damages to any person (other than the insurance company or the insurance commissioner) for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(f) The statement of actuarial opinion, submitted pursuant to subsection (a) of this section, shall cover the applicable points set forth in sections 38a-78-1 to 38a-78-9, inclusive, of the Regulations of Connecticut State Agencies and at a minimum consist of:

(1) A paragraph identifying the valuation actuary and the valuation actuary's qualifications;

(2) A scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the valuation actuary's work;

(3) A reliance paragraph describing those areas, if any, where the valuation actuary deferred to other experts in developing data, procedures, or assumptions (e.g., data, procedures or assumptions regarding anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios), supported by a statement of each expert in the form prescribed by section 38a-78-7 of the Regulations of Connecticut State Agencies; and

(4) An opinion paragraph expressing the valuation actuary's opinion that, after taking into account any risk charge payable from the separate account assets and the amount of any reserve liability of the general account and amounts held in any supplemental account with respect to the asset maintenance requirement, the account assets make adequate

provision for the contract liabilities.

(5) The opinion shall also state:

(A) That the level of risk charges, if any, payable to the general account was appropriate in view of such factors as the nature of the guaranteed contract liabilities and losses experienced in connection with account contracts, and other pricing factors;

(B) That after taking account of any reserve liability of the general account and amounts held in any supplemental account with respect to the asset maintenance requirement, the amount of the account assets satisfied the asset maintenance requirement;

(C) That the fixed-income asset portfolio conformed to, and justified, the rates used to discount contract liabilities for valuation pursuant to section 38a-459-14(f) of the Regulations of Connecticut State Agencies, if applicable; and

(D) Whether any rates utilized, pursuant to section 38a-459-14(f) of the Regulations of Connecticut State Agencies, to discount guaranteed contract liabilities and other items applicable to the separate account or any supplemental account were modified from the rate or rates described in the plan of operations filed pursuant to section 38a-459-12 of the Regulations of Connecticut State Agencies.

(6) One or more additional paragraphs may be needed in individual insurance company cases as follows:

(A) If the valuation actuary considers it necessary to state a qualification of his opinion;

(B) If the valuation actuary has to disclose an inconsistency in the method of analysis used at the prior opinion date with that used for this opinion; or

(C) If the valuation actuary chooses to add a paragraph briefly describing the assumptions which form the basis of the actuarial opinion.

(g) The opinion shall be accompanied by a certificate of an officer of the insurance company responsible for monitoring compliance with the asset maintenance requirements for the separate accounts, describing the extent to and manner in which during the preceding year:

(1) Actual benefit payments conformed to the benefit payment estimated to be made as described in the plan of operations;

(2) The determination of the value of the separate account and any supplemental account conformed to the valuation procedures described in the plan of operations, including, but not limited to, a statement of the procedures and sources of information used during the year; and

(3) Any assets were transferred to or from the insurance company's general account, or any amounts were paid to the insurance company by any contract holder to support the insurance company's guarantee.

(h) The actuarial memorandum shall:

(1) Substantially conform with those portions of section 38a-78-9 of the Regulations of Connecticut State Agencies applicable to asset adequacy testing and either:

(A) Demonstrate the adequacy of account assets based upon cash flow analysis; or

(B) Explain why cash flow analysis is not appropriate, describe the alternative methodology of asset adequacy testing used, and demonstrate the adequacy of account assets under such methodology;

(2) Describe the assumptions the valuation actuary used in support of the actuarial

opinion, including any assumptions made in projecting cash flows under each class of assets and any dynamic portfolio hedging techniques utilized and the tests performed on the utilization of the techniques. As used in this section, "dynamic portfolio hedging techniques" includes techniques whereby an underlying portfolio of liabilities and their corresponding assets are hedged through the purchase or sale (owned or not owned by the hedger) of a hedging instrument, and such purchase or sale is managed so as to decrease the probability or severity of loss of the underlying portfolio due to changes in economic, market, insurable, or other events and the hedge is regularly adjusted or re-balanced through additional purchases or sales of assets, liabilities, or financial instruments (including options, futures, and derivatives) at regular, small intervals as the risks and characteristics of the underlying portfolio change, in a manner that incorporates recent events;

(3) Describe how the valuation actuary reflected the risk of default on obligations and mortgage loans, including obligations and mortgage loans that are not investment grade;

(4) Describe how the valuation actuary has reflected withdrawal risks, if applicable, including a discussion of the positioning of the contracts within the benefit withdrawal priority order pertaining to the contracts, the impact of any dynamic lapse assumption and the results of sensitivity testing the estimate of future plan sponsor withdrawals pursuant to section 38a-459-14(g)(3) of the Regulations of Connecticut State Agencies;

(5) If the plan of operations provides for investments in separate account or supplemental account assets other than United States government obligations, demonstrate that the rates used to discount contract liabilities pursuant to section 38a-459-14(f) of the Regulations of Connecticut State Agencies accurately reflect expected investment returns (taking into account any foreign exchange risks);

(6) If the contracts provide that in certain circumstances they would cease to be funded by a separate account and instead, would become contracts funded by the general account, clearly describe how any increased reserves would be provided for if and to the extent these circumstances occurred;

(7) State the amount of separate account assets that are not chargeable with liabilities arising out of any other business of the insurance company;

(8) State the amount of reserves and supporting assets as of December 31 and where the reserves and assets are shown in the annual statement;

(9) State the amount of any contingency reserve carried as part of surplus;

(10) For book value contracts, state the market value of supporting assets; and

(11) Where separate account assets are not chargeable with liabilities arising out of any other business of the insurance company, describe how the level of risk charges payable to the general account provider are appropriate compensation for the risk taken by the general account.

(Adopted effective June 1, 2002; Amended December 23, 2008; Amended December 8, 2017)