

ACT NO. 8135

BILL NO. 32-0248

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2018

An Act amending Title 22 of the Virgin Islands Code to add a Chapter 42 enacting "The Actuarial Opinion and Memorandum Act" to meet the accreditation standards established by the National Association of Insurance Commissioners and to provide for greater and more effective protection to the policyholders of the Territory

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WHEREAS, many of the laws governing the insurance industry in the Territory are outdated as they were enacted in 1968 and have not been updated; and

WHEREAS, the laws governing the insurance industry in the Territory do not grant to the Commissioner of Insurance of the Virgin Islands all of the necessary authority to effectively regulate the solvency of the multi-state domestic insurance industry in the Territory; and

WHEREAS, all other United States jurisdictions have periodically updated their insurance laws commensurate with the ever-evolving insurance industry; and

WHEREAS, the NAIC has established core accreditation standards and a comprehensive set of laws, known as the Model Laws and Regulations, in order to assist United States jurisdictions in their regulation of the solvency of their multi-state domestic insurance industry thereby affording greater protection to the policyholders in the United States; and

WHEREAS, all of the 50 United States and the Commonwealth of Puerto have adopted the NAIC Model Laws and Regulations and the accreditation requirements and are now in substantial compliance with the NAIC accreditation standards; and

WHEREAS, the Territory has not adopted most of the NAIC Model Laws and Regulations that are necessary to obtain NAIC accreditation; and

WHEREAS, the enactment of the Actuarial Opinion Memorandum Act will place the Territory on par with other United States jurisdiction and will satisfy one of the NAIC

requirements for bringing the Territory into compliance with the NAIC accreditation standards; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. (a) This act may be cited as “The Actuarial Opinion and Memorandum Act”.

(b) Title 22 is amended by adding chapter 42 to read as follows:

“Chapter 42-Actuarial Opinion and Memorandum

§1031 (a) This chapter applies to all life insurance companies and fraternal benefit societies doing business in this territory and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this territory;

(b) This chapter must be applied in a manner that allows the appointed actuary to use professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Commissioner may specify methods of actuarial analysis and actuarial assumptions when, in the Commissioner’s judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

(c) This chapter is applicable to all annual statements filed with the office of the Commissioner after the effective date of this chapter. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with section 1035 and a memorandum in support thereof in accordance with section 1036, is required each year.

§ 1032 Definitions

(1) “Actuarial Opinion” means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with section 1035 and with applicable Actuarial Standards of Practice.

(2) “Actuarial Standards Board” means 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 Section 222 of this title which is required to be filed by the company with the office of the Commissioner annually.

(4) “Appointed actuary” means an individual who is appointed or retained in accordance with the requirements set forth in section 1033(c) to provide the actuarial opinion and supporting memorandum as required by section 535 of the Standard Valuation Law of 2018.

(5) “Asset adequacy analysis” means an analysis that meets the standards and other requirements referred to in section 1033(d).

(6) “Commissioner” means the Commissioner of Insurance of the Virgin Islands.

(7) “Company” means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this chapter.

(8) “Qualified actuary” means an individual who meets the requirements set forth in section 1033(b) of this section.

§ 1033 General Requirements

(a) **Submission of Statement of Actuarial Opinion.** There must be included on or attached to page one of the annual statement for each year beginning with the year in which this chapter becomes effective 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 subsection (d) of this section. Upon written request by the company, the Commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

(b) **Qualified Actuary.** 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 Insurance Law or other law in the course of dealings as a qualified actuary;

(B) been found guilty of fraudulent or dishonest practices;

(C) demonstrated incompetency, lack of cooperation or untrustworthiness to act as a qualified actuary;

(D) submitted to the Commissioner during the past five years, pursuant to this chapter, an actuarial opinion or memorandum that the Commissioner rejected, because it did not meet the requirements of this chapter, including standards set by the Actuarial Standards Board; or

(E) Resigned or been removed as an actuary within the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(5) Has failed to notify the Commissioner of any action taken by any commissioner of any other state similar to that under subsection (b)(4).

(c) **Appointed Actuary.** A qualified Actuary must be appointed or retained to prepare the Statement of Actuarial Opinion required by this chapter, 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 if 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 must so state and give the reasons for replacement.

(d) **Standards for Asset Adequacy Analysis.** The asset adequacy analysis required by this chapter must:

(1) conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this chapter, which are to form the basis of the statement of actuarial opinion in accordance with this chapter; and

(2) be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

§1034 Liabilities to be Covered.

(a) Under authority of section 535 of this title, the statement of actuarial opinion applies 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 1 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 the Standard Valuation Law of 2018, the company shall establish the additional reserve.

(c) Additional reserves established under subsection (b) 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 may not be deemed an adoption of a lower standard of valuation.

§1035 Statement of Actuarial Opinion Based on an Asset Adequacy Analysis

(a) **General Description.** The statement of actuarial opinion submitted in accordance with this section must consist of:

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

(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 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 such as anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios, supported by a statement of each such expert in the form prescribed by subsection (f);

(4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities; and one or more additional paragraphs may be needed in individual company cases as follows:

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

(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 must be included in the statement of actuarial opinion in accordance with this chapter. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language that clearly expresses the actuary's professional judgment. However, the opinion must retain all pertinent aspects of the language provided in this section.

(1) The opening paragraph must generally indicate the appointed actuary's relationship to the company and the actuary's qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion must include a statement, substantially similar to the following:

"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 the 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 must include a statement substantially similar to the following:

"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."

(A) The scope paragraph must include a statement substantially similar to 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/territory regulatory officials, as of [insert date]. 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 Item 1, Page 3)					
Exhibit 6					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
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 (Column 1, Line 14)					
Exhibit 8 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4)					
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 ____)					
Allocated amount of Asset Valuation Reserves ("AVR") (Page ____ Line ____)				(c)	
Net Deferred and Uncollected Premium					

(3) the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph must include a statement substantially similar to the following:

(A) "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."

(B) A statement of reliance on other experts must be accompanied by a statement by each of the experts in the form prescribed by subsection (f).

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph must include a statement substantially similar to 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. 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, such as listings and summaries of policies in force or asset records prepared by the company, the reliance paragraph must include a statement substantially similar to the following:

(A) “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.”

(B) The statement must be accompanied by a statement by each person relied upon in the form prescribed by subsection (f).

(6) The opinion paragraph must include a statement substantially similar to the following:

“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 regulation 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); and

(E) include provision for all actuarial reserves and related statement items which ought to be established.

(7) 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. At the discretion of the Commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this territory and in no other state.)

(A) 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 statement should also include one of the following paragraphs, whichever is applicable:

(i) 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

(ii) The following material changes that 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.)

(8) 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.

(d) Adverse Opinions

If the appointed actuary is unable to form an opinion, then the appointed actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then the appointed actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement must 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 must so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. 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 must 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.

(f) Alternate Options

(1) As an alternative to the requirements of subsection (b)(6)(C), the Commissioner may make one or more of the following additional approaches available to the opining actuary:

(A) A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this territory for filing an opinion based on the law of the state of domicile." If the Commissioner chooses to allow this alternative, a formal written list of standards and conditions must be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year must apply to statements for that calendar year, and they must remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

(B) A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the Commissioner for approval of that request have been met." If the

Commissioner chooses to allow this alternative, a formal written statement of such allowance must be issued no later than March 31 of the year it is first effective. It must remain valid until rescinded or modified by the Commissioner. The rescission or modifications must be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request must be deemed approved on October 1 of that year if the Commissioner has not denied the request by that date.

(C) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this territory.”

(2) If the Commissioner chooses to allow this alternative, a formal written list of products, to be added to the table in paragraph (3) for which the required comparison is provided must be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year applies to statements for that calendar year, and it must remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

(3) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided must be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(A) The information listed must include all products identified by either the state of filing or any other states subscribing to this alternative.

(B) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(C) The comparison provided by the company must be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

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

§1036 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

(a) In accordance with section 535 of this title, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the appointed actuary's opinion regarding the reserves. The memorandum must be made available for examination by the Commissioner upon the Commissioner's request, but must be returned to the company after the examination and may not be considered a record of the Division of Banking, Insurance and Financial Regulation or subject to automatic filing with the Commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of the appointed actuary's own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of section 1033(b), 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 chapter, the Commissioner may designate a qualified actuary to review the opinion and prepare the supporting memorandum as is required for review. The reasonable and necessary expense of the independent review must be paid by the company, but must 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 must be retained by the Commissioner. However, any information provided by the company to the reviewing actuary and included in the work papers must be considered as material provided by the company to the Commissioner and must 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 Standard Valuation Law under this title and any other applicable law governing the submission of these documents. The reviewing actuary may not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this chapter for any one of the current years or the preceding three years.

(e) In accordance with section 529 of this title, encoded at 22 V.I.C. chapter 21, subchapter II, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in section 1033(d). The regulatory asset adequacy issues summary must 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 must be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

§ 1037 Details of the Memorandum Section Documenting Asset Adequacy Analysis

(a) When an actuarial opinion is provided, the memorandum must demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in section 1033(d) and any additional standards under this chapter. It must 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 considers 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;

(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.

(H) The documentation of the assumptions must 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

(iv) Determining yield on assets acquired through the investment strategy.

(F) The documentation of the assumption must 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, including 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, including 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

(b) Details of the Regulatory Asset Adequacy Issues Summary

(1) The regulatory asset adequacy issues summary must 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 shall 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 must 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, such as the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

(E) The methods used by the actuary to recognize the impact of reinsurance on the 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 must contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and must be signed and dated by the appointed actuary rendering the actuarial opinion.

(c) **Conformity to Standards of Practice.** The memorandum must include a statement:

“Actuarial methods, considerations and analysis used in the preparation of this memorandum conforms to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum.”

(d) **Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve**

(1) An appropriate allocation of assets in the amount of the interest maintenance reserve, whether positive or negative, must 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; these asset valuation reserve 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.

(2) The amount of the assets used for the asset valuation reserve must 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 must be disclosed in the memorandum.

(e) **Documentation.** For seven years, the appointed actuary must retain on file 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 2. This act applies to annual statements submitted 60 days after the effective date of this act.

Thus passed by the Legislature of the Virgin Islands on October 12, 2018.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 26th Day of October, A.D., 2018.



A handwritten signature in blue ink, reading "Myron D. Jackson".

Myron D. Jackson
President

A handwritten signature in blue ink, reading "Jean A. Forde".

Jean A. Forde
Legislative Secretary



Bill No. 32-0248 is hereby approved.

Witness my hand and the seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 10th day of November, 2018 A.D.

 A handwritten signature in blue ink, reading "Kenneth E. Mapp".

Kenneth E. Mapp
Governor