

# STATE OF NEW YORK

11116--A

## IN ASSEMBLY

June 5, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cahill) -- read once and referred to the Committee on Insurance -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the insurance law, in relation to the implementation of a valuation manual; and to direct the department of financial services to study the impact of the implementation of such valuation manual; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 4217 of the insurance law is amended by adding a  
2 new subsection (g) to read as follows:

3 (g)(1) This subsection shall apply only to individual and group life  
4 insurance policies and annuity contracts issued on or after the opera-  
5 tive date of the valuation manual as prescribed by the superintendent by  
6 regulation, provided that the operative date shall be no sooner than  
7 January first, two thousand nineteen.

8 (2) For the purposes of this subsection, "NAIC" shall mean the  
9 National Association of Insurance Commissioners.

10 (3) For purposes of this subsection, "principle-based valuation" shall  
11 mean a reserve valuation that uses methods and assumptions required by  
12 paragraph eleven of this subsection as specified in the valuation manu-  
13 al.

14 (4) For purposes of this subsection, "qualified actuary" shall mean a  
15 member in good standing of the American Academy of Actuaries who meets  
16 the requirements prescribed by the superintendent by regulation.

17 (5) For purposes of this subsection, "valuation manual" shall mean the  
18 valuation manual adopted by the NAIC on December second, two thousand  
19 twelve, as subsequently amended, and as approved by the superintendent  
20 upon a finding that such manual is for the best interests of the holders  
21 of policies and contracts and annuitants of this state and which meets  
22 the requirements as set forth in this subsection.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (6) Notwithstanding subsection (c) of this section and section four  
2 thousand two hundred eighteen of this article, the minimum standard for  
3 the valuation of all such policies and contracts shall be the standard  
4 prescribed in the valuation manual.

5 (7) The valuation manual shall not become operative in this state  
6 unless and until the superintendent has approved of such manual and has  
7 adopted all necessary regulations to effectuate this subsection.

8 (8) (A) No amendment to the valuation manual shall take effect in this  
9 state unless the superintendent finds that such amendment is for the  
10 best interests of the holders of policies and contracts and annuitants  
11 of this state.

12 (B) The superintendent may deviate, through regulations, from the  
13 reserve standards, valuation methods, assumptions, and related require-  
14 ments in the valuation manual, including for individual companies,  
15 provided, however, that such deviation shall not result in reserve valu-  
16 ations that are lower than the minimum standards prescribed in the valu-  
17 ation manual and may be based on a percentage of the reserves being held  
18 for the policies and contracts subject to this subsection prior to the  
19 operative date of such manual.

20 (9) The valuation manual shall specify all of the following:

21 (A) Minimum valuation standards for and definitions of the policies  
22 and contracts subject to this subsection as determined by the super-  
23 intendent. Such minimum valuation standards shall be:

24 (i) The commissioners reserve valuation method for life insurance  
25 policies subject to this subsection; and

26 (ii) The commissioners annuity reserve valuation method for annuity  
27 contracts subject to this subsection.

28 (B) Requirements for the format of reports to the superintendent under  
29 item (iii) of subparagraph (B) of paragraph eleven of this subsection  
30 and which shall include information necessary to determine if the valu-  
31 ation is appropriate and in compliance with this subsection;

32 (C) Assumptions for risks over which a company does not have signif-  
33 icant control or influence;

34 (D) Procedures for corporate governance and oversight of the actuarial  
35 function, and a process for appropriate waiver or modification of such  
36 procedures;

37 (E) Other requirements, including, but not limited to, those relating  
38 to reserve methods, models for measuring risk, generation of economic  
39 scenarios, assumptions, margins, use of company experience, risk meas-  
40 urement, disclosure, certifications, reports, actuarial opinions and  
41 memorandums, transition rules and internal controls; and

42 (F) The data and form of the data required under paragraph twelve of  
43 this subsection, with whom the data shall be submitted, and other  
44 requirements including data analyses and reporting of analyses.

45 (10) The superintendent may engage a qualified actuary, at the expense  
46 of a company, to perform an actuarial examination of such company and  
47 opine on the appropriateness of any reserve assumption or method used by  
48 such company, or to review and opine on such company's compliance with  
49 any requirement set forth in this subsection.

50 (11) (A) A company that issues policies and contracts subject to this  
51 subsection shall establish reserves using a principle-based valuation  
52 that meets the following conditions for such policies and contracts as  
53 specified in the valuation manual:

54 (i) Quantify the benefits and guarantees, and the funding, associated  
55 with the policies or contracts and their risks at a level of conserva-  
56 tism that reflects conditions that include unfavorable events that have

1 a reasonable probability of occurring during the lifetime of the poli-  
2 cies and contracts. For policies and contracts with significant tail  
3 risk, reflect conditions appropriately adverse to quantify the tail  
4 risk.

5 (ii) Incorporate assumptions, risk analysis methods and financial  
6 models and management techniques that are consistent with, but not  
7 necessarily identical to, those utilized within the company's overall  
8 risk assessment process, while recognizing potential differences in  
9 financial reporting structures and any prescribed assumptions or meth-  
10 ods.

11 (iii) Incorporate assumptions that are derived in one of the following  
12 manners:

13 (I) The assumption is prescribed in the valuation manual.

14 (II) For assumptions that are not prescribed, the assumptions shall:

15 a. be established utilizing the company's available experience, to the  
16 extent it is relevant and statistically credible; or

17 b. to the extent that company experience is not available, relevant,  
18 or statistically credible, be established utilizing other relevant,  
19 statistically credible experience.

20 (iv) Provide margins for uncertainty including adverse deviation and  
21 estimation error, such that the greater the uncertainty the larger the  
22 margin and resulting reserve.

23 (B) A company that issues policies and contracts subject to this  
24 subsection shall:

25 (i) Establish procedures for corporate governance and oversight of the  
26 actuarial valuation function consistent with those described in the  
27 valuation manual.

28 (ii) Provide to the superintendent, annually on or before a date as  
29 determined by the superintendent, and the board of directors of the  
30 company an annual certification of the effectiveness of the internal  
31 controls with respect to the principle-based valuation. Such controls  
32 shall be designed to assure that all material risks inherent in the  
33 liabilities and associated assets subject to such valuation are included  
34 in the valuation, and that valuations are made in accordance with the  
35 valuation manual. The certification shall be based on the controls in  
36 place as of the end of the preceding calendar year.

37 (iii) Develop, and file with the superintendent upon request, a prin-  
38 ciple-based valuation report that complies with standards prescribed in  
39 the valuation manual.

40 (C) A principle-based valuation shall include a prescribed formulaic  
41 reserve component.

42 (12) A company that issues policies and contracts subject to this  
43 subsection shall submit mortality, morbidity, policyholder behavior, or  
44 expense experience and other data as prescribed in the valuation manual  
45 to the superintendent annually on or before a date as determined by the  
46 superintendent.

47 (13) (A) The superintendent may exempt specific product forms or prod-  
48 uct lines of a domestic company that is licensed and doing business only  
49 in this state from the requirements of this subsection provided:

50 (i) The superintendent has issued an exemption in writing to the  
51 company and has not subsequently revoked the exemption in writing; and

52 (ii) The company computes reserves using assumptions and methods used  
53 prior to the operative date of the valuation manual in addition to any  
54 requirements established by the superintendent and promulgated by regu-  
55 lation.

1 (B) For any company granted an exemption under this paragraph,  
2 subsections (c), (d), (e) and (f) of this section and section four thou-  
3 sand two hundred eighteen of this article shall be applicable. With  
4 respect to any company applying for this exemption, any reference to  
5 subsection (g) found in subsections (c), (d), (e) and (f) of this  
6 section and section four thousand two hundred eighteen of this article  
7 shall not be applicable.

8 § 2. 1. For purposes of this section, valuation manual shall have the  
9 same meaning as such term is defined by section 4217 of the insurance  
10 law.

11 2. The department of financial services shall study the impact on the  
12 New York state life insurance industry and consumers of the implementa-  
13 tion of the valuation manual for determining the amount of required  
14 reserves for individual and group life insurance policies and annuity  
15 contracts. Such study shall include but not be limited to:

16 (a) The percentage change between the reserves required under New York  
17 state law prior to the implementation of the valuation manual and the  
18 reserves required pursuant to such manual for individual and group life  
19 insurance policies and annuity contracts;

20 (b) The percentage change between premiums prior to the implementation  
21 of the valuation manual and premiums after the implementation of such  
22 manual in the individual and group life insurance markets and annuity  
23 market;

24 (c) Identification of the redundancies eliminated from the reserves  
25 for each product subject to the valuation manual;

26 (d) The impact on the use of captive insurance companies by the life  
27 insurance industry to reinsure existing policies and contracts;

28 (e) The changes to the department of financial services oversight of  
29 insurance companies that have occurred as a result of implementing the  
30 valuation manual;

31 (f) The impact on risk based capital requirements;

32 (g) The impact on consumers including cost savings, cost increases,  
33 any loss of accrued interest on policies and contracts, any loss of  
34 existing consumer protections and the impact of replacement products;  
35 and

36 (h) An analysis of any regulations promulgated by the department of  
37 financial services that allow deviations from the reserve standards,  
38 valuation methods, assumptions, and related requirements in the valu-  
39 ation manual, including (1) a summary of such deviations, (2) whether  
40 such deviations are based upon a percentage of the reserves held for the  
41 policies and contracts subject to subsection (g) of section 4217 of the  
42 insurance law prior to the operative date of the valuation manual, and  
43 (3) the impact of such deviations on reserves for impacted insurance and  
44 annuity products including a comparison of the differences between  
45 reserves for impacted insurance and annuity products required prior to  
46 the implementation of the valuation manual and reserves required for  
47 impacted insurance and annuity products as a result of such deviations  
48 from the valuation manual.

49 3. The superintendent of the department of financial services shall  
50 submit a report to the governor, temporary president of the senate and  
51 speaker of the assembly of the department's findings in the second,  
52 fifth and seventh years after the operative date of the valuation manu-  
53 al.

54 § 3. This act shall take effect immediately; and shall be deemed  
55 repealed 10 years after it shall have become a law.