

# STATE OF NEW YORK

8978

## IN SENATE

June 8, 2018

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed 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

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.

22 (6) Notwithstanding subsection (c) of this section and section four  
23 thousand two hundred eighteen of this article, the minimum standard for  
24 the valuation of all such policies and contracts shall be the standard  
25 prescribed in the valuation manual, as modified by the superintendent  
26 pursuant to subparagraph (B) of paragraph eight of this subsection.

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

LBD16245-02-8

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

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

8     (B) The superintendent may deviate, through regulations, from the  
9 reserve standards, valuation methods, assumptions, and related require-  
10 ments in the valuation manual provided, however, that such deviation  
11 shall not result in reserve valuations that are lower than the minimum  
12 standards prescribed in the valuation manual and may be based on a  
13 percentage of the reserves being held for the policies and contracts  
14 subject to this subsection prior to the operative date of such manual.

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

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

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

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

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

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

29     (D) Procedures for corporate governance and oversight of the actuarial  
30 function, and a process for appropriate waiver or modification of such  
31 procedures;

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

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

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

45     (11) (A) A company that issues policies and contracts subject to this  
46 subsection shall establish reserves using a principle-based valuation  
47 that meets the following conditions for such policies and contracts as  
48 specified in the valuation manual, as modified by the superintendent  
49 pursuant to subparagraph (B) of paragraph eight of this subsection:

50         (i) Quantify the benefits and guarantees, and the funding, associated  
51 with the policies or contracts and their risks at a level of conserva-  
52 tism that reflects conditions that include unfavorable events that have  
53 a reasonable probability of occurring during the lifetime of the poli-  
54 cies and contracts. For policies and contracts with significant tail  
55 risk, reflect conditions appropriately adverse to quantify the tail  
56 risk.

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

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

(I) The assumption is prescribed in the valuation manual, as modified by the superintendent pursuant to subparagraph (B) of paragraph eight of this subsection.

(II) For assumptions that are not prescribed, the assumptions shall:  
a. be established utilizing the company's available experience, to the extent it is relevant and statistically credible and is approved by the superintendent; or

b. to the extent that company experience is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience that is approved by the superintendent.

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

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

(i) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual, as modified by the superintendent pursuant to subparagraph (B) of paragraph eight of this subsection.

(ii) Provide to the superintendent, annually on or before a date as determined by the superintendent, and the board of directors of the company an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual, as modified by the superintendent pursuant to subparagraph (B) of paragraph eight of this subsection. The certification shall be based on the controls in place as of the end of the preceding calendar year.

(iii) Develop, and file with the superintendent upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual, as modified by the superintendent pursuant to subparagraph (B) of paragraph eight of this subsection.

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

(12) A company that issues policies and contracts subject to this subsection shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual, as modified by the superintendent pursuant to subparagraph (B) of paragraph eight of this subsection to the superintendent annually on or before a date as determined by the superintendent.

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

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

1 (ii) The company computes reserves using assumptions and methods used  
2 prior to the operative date of the valuation manual, as modified by the  
3 superintendent pursuant to subparagraph (B) of paragraph eight of this  
4 subsection in addition to any requirements established by the super-  
5 intendent and promulgated by regulation.

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

13 (14) The superintendent may require a company to change any assumption  
14 or method used to calculate the company's reserves that, in the opinion  
15 of the superintendent, is necessary in order to comply with the require-  
16 ments of the valuation manual or this subsection; and the company shall  
17 adjust the reserves as required by the superintendent.

18 § 2. 1. For purposes of this section, the term "valuation manual"  
19 shall have the same meaning as such term is defined by subsection (g) of  
20 section 4217 of the insurance law.

21 2. The department of financial services shall, in connection with  
22 issuing the report required in subdivision 3 of this section, study the  
23 impact on the New York state life insurance industry and consumers of  
24 the implementation of the valuation manual for determining the amount of  
25 required reserves for individual and group life insurance policies and  
26 annuity contracts. Such study shall include but not be limited to:

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

31 (b) The percentage change between premiums prior to the implementation  
32 of the valuation manual and premiums after the implementation of such  
33 manual in the individual and group life insurance markets and annuity  
34 market;

35 (c) The changes to the department of financial services oversight of  
36 insurance companies that have occurred as a result of implementing the  
37 valuation manual;

38 (d) The impact on risk based capital requirements; and

39 (e) The impact on consumers including cost savings, cost increases,  
40 any loss of accrued interest on policies and contracts, any loss of  
41 existing consumer protections and the impact of replacement products.

42 3. The superintendent of the department of financial services shall  
43 submit a report to the governor, temporary president of the senate and  
44 speaker of the assembly of the department's findings no later than five  
45 years after the operative date of the valuation manual.

46 § 3. This act shall take effect immediately.