

1973 WL 26612 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1973

*1 Honorable Claude McCain
Chairman
South Carolina Insurance Commission
Columbia, South Carolina

Dear Mr. McCain:

Act No. 1352 of 1972, approved June 2, 1972, amends Section 37-293 of the Code of Laws for 1962 by providing:

‘—a consulting actuary—may—certify by affidavit that the annual statement contains a full and true statement with respect to policy reserves and all other items of an actuarial nature.’

A form of affidavit has been prepared by the Department of Insurance, reciting:

(The actuary) ‘deposes and says that the above described annual statement contains a full and true statement with respect to policy reserves and all other items of an actuarial nature.’

You have inquired as to whether a qualified affidavit or certificate may be accepted from an examining actuary, reciting that such certificate is ‘based on the inventory of policies in force as supplied to me by the (blank) company.’

It is my opinion that such form of certificate is not acceptable in accordance with the provisions of Section 37-293, as amended.

The amendment to the statute requires, as set forth above, that the actuary certify ‘that the annual statement contains a full and true statement with respect to policy reserves and all other items of an actuarial nature.’ The purpose of the certification by an actuary is to obtain from him his expert judgment as to the truthfulness and accuracy of the annual statement with respect to policy reserves and other actuarial matters and this allows no modifications or restrictions as to the form of certificate required.

The statute requires a determination by the actuary that the statement is ‘full and true’ with respect to policy reserves and other actuarial items. This conclusion must be based upon whatever actuarial procedures are necessary, but to premise it upon information furnished solely by the company being examined would appear to render the statute meaningless.

The actuary must undertake such procedures as may be required in order for him to render his certification of the accuracy of the annual statement submitted. This responsibility rests upon the actuary and it is incumbent upon him to secure such necessary data and to undertake such measures as he considers necessary to form a judgment upon which his certificate can be based.

Very truly yours,

Daniel R. McLeod
Attorney General

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