

SUMMARY

Key Words: status of actuary, institute of actuaries, responsible actuary, self-regulatory organization of actuaries, actuary.

Subject matter: civil status of actuary

Author: Antonova Elena Sergeevna

Supervisor: dock.polit.sciences, kand. jus. sciences, associate professor of civil law and process G.V. Stankevich

The supervising organization: LLC Ingosstrakh-M

The relevance of the research topic: To date, it is almost impossible to imagine insurance activities without actuaries. And actuarial activity every day becomes positively developing in insurance companies. It is hard to believe that this profession is not new, actuaries in Russia existed a lot of time, but only 02.11.2013 came into force the Federal law of N 293-FZ "On actuarial activities in the Russian Federation." This Federal law overcame a difficult path from the bill to signing by the President of the Russian Federation. It was submitted to the State Duma on 20 June 2007. For almost six years, painstaking work was carried out on this legal act: attempts were made to eliminate differences, to this end, a conciliation Commission was convened to work on the law. In conclusion, each of the interested parties received a separate Law on actuarial activities. For what reason there was a need for adoption of the Federal law from N 293-FZ?

The importance and relevance of the creation of the above Law due to the fact that the existing legal framework at the time did not provide a competent, effective regulation of actuarial activities in the Russian Federation. Before adoption of the Federal law from N 293-FZ "On actuarial activity in the Russian Federation" the regulations including provisions on actuarial activity existed in separate legal acts: in the insurance legislation, in the legislation on the securities market (regarding non-state pension funds), on insolvency and in the tax legislation. De facto, there was no legal regulation of the system of relations under consideration, there was no precise concept of the subject of actuarial activity and its civil law features, the subject and objects of actuarial valuation, requirements for the methods of actuarial activity and mechanisms of control over them. However, the Federal law governing actuarial activities, until 2013 did not exist. In addition, another problem was the lack of legal rules governing the responsibility of the actuary for the results of his own activities.

The Federal law of N 293-FZ was created to eliminate conflicts and inaccuracies in the legal regulation of actuarial activities, to create mechanisms for effective regulation and implementation of actuarial activities in our country and to seriously increase the transparency and effectiveness of such important areas of social and legal spheres as insurance and pensions. The Federal law of N 293-FZ did not introduce significant innovations in earlier legal acts, but it regulated essential provisions on the status of actuaries and on the organization of their professional activities.

This graduation qualification work is dedicated, again, the actuaries as legal entities and their legal status.

Today, without the participation of actuaries, most insurance relationships do not make sense, are pointless, and, in some situations, and simply impossible. And for this reason, the theme of the final qualifying work can not be relevant. This topic is also relevant for the reason that its theoretical development is of great importance for the practice of subjects of insurance law, and, of course, to improve and increase the level of legality in the work of insurance companies working with actuaries.

The above-mentioned novel not only gave great importance to the role of the Institute of actuaries in the insurance system, raised the question of the role and importance of the Institute of insurance actuaries, but also gave rise to many questions of theoretical and practical nature. This is partly due to some "understatement" in the normative consolidation, but in many ways - with the already traditional attitude to the Institute and its role for insurance in General, which developed even before the adoption of the Federal law from N 293-FZ.

The purpose of the work:: analysis of the civil status of the actuary.

Objective: to analyze the Institute of actuaries and the actuarial activities in the Russian Federation; to consider the Genesis of the Institute of actuaries of the Russian Federation, to give a General characterization of the actuary; to reveal the legal basis of actuarial activities; to study the peculiarities of the legal status of the actuary in the Russian Federation; to highlight the legal problems of civil law regulation of the status of actuaries.

The theoretical and practical significance of the research is primarily due to the fact that the Institute of insurance actuaries determines the efficiency of the insurance system and the correct calculation of risks in this area. Theoretical conclusions and practical recommendations made on the basis of the study of the works of Russian legal scholars and materials of judicial practice are aimed at improving civil and insurance legislation.

Results of the study:

1. The Institute of actuaries has passed a rather complicated historical and legal way. This type of activity was at the Zenith, then fell into oblivion. Reconstruction of this Institute happened only 27 years ago with adoption of the Federal law of the Russian Federation "On the organization of insurance business in the Russian Federation" of 27.11.1992 N 4015.

2. Actuary – a subject, as a rule, a natural person who, according to his / her labor competence, under an employment contract or under a civil contract, is a risk assessment activity, and is a mandatory participant in the SRO.

Responsible actuary – a specialist, which contains data in the unified register of actuaries, such a specialist is engaged in according to the employment or civil contract writing actuarial conclusion, and then sends it to the Bank of Russia, its main difference from the actuary – that he takes responsibility for the facts contained in the conclusion.

Self-regulatory organization of actuaries (SRO actuaries) is a non-profit organization that is created to regulate and control actuarial activities and is included in the unified state register of self-regulatory organizations of actuaries, uniting actuaries on the terms of membership.

3. It took almost ten years for legislators to adopt the current Federal law regulating this type of activity.

4. After the innovation of 2015, each legal entity carrying out insurance activities should be subject to annual actuarial valuation. For the reason that the actuary does not have the status of an individual entrepreneur, this activity refers to other professional activities, which obliges all members to be members of the SRO.

5. The civil status of the actuary is one of the most pressing issues addressed in the literature on civil and insurance law. Requirements for actuaries are not currently applied to other types of professional activities, for example, auditors, appraisers. However, it should be noted that auditors are not deprived of the opportunity to carry out business activities in parallel with the professional, and therefore have the right to be registered as individual entrepreneurs. For this reason, the legal status of the above entities raises the question whether actuaries can have the status of an individual entrepreneur or not? The implementation of actuarial activities within the framework of an employment contract deprives them of this ability, and the existence of a civil contract for actuarial valuation, for example, does not indicate the systematic nature of the activity.

Recommendations:

1. To limit as much as possible, and possibly to exclude completely, any impact on the actuary, ensuring his independence in the conduct of the audit, especially on the part of the employer. A specialist in this field should act objectively and not act on the advice and instructions of his direct employer. It would be more competent to introduce territorial actuarial organizations that were directly engaged in such activities, appointed by the Central Bank of the Russian Federation, and the audited would be given the right to choose only from the existing list of specialists and sign a civil contract with him.

2. Supplement the official websites of organizations that control the activities of actuaries with more detailed information about this activity and its representatives. This process can be

implemented by analogy with the method used by notaries, but can be limited not to territorial, but only regional authorities. Only by using this system can provide at least partial independence of such specialists, which currently exists only on paper. Legal entities engaged in insurance activities, of course, will be able to have their actuaries, but who will calculate the risks in insurance contracts, and not to carry out an annual audit of such persons.

3. It is necessary to develop identical instructions for all professionals of the actuarial valuation risks and failures.

5. To solve the problematic issues of qualified training of such specialists. Open specialized educational institutions: schools, courses, Universities in all subjects.

After the innovation of 2015, each legal, carrying out insurance activities should be subject to annual actuarial valuation, but it is not so easy, and sometimes almost impossible, to find a competent experienced specialist in this field for the audited.