

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #7

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FILED

2004 NOV -1 P 4: 09

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY: W. Va. Code §§33-2-10 and 33-7-9(d)(1)(C)(iii)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 69

TITLE OF RULE BEING PROPOSED: Recognition of the 2001 CSO Mortality Table For Use In
Determining Minimum Reserve Liabilities & Nonforfeiture Benefits

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

PLEASE SEE ATTACHED

Use additional sheets if necessary


Authorized Signature

NOTICE OF AN EMERGENCY RULE - ATTACHMENT

The emergency rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68. This rule, adopted by the National Association of Insurance Commissioners as a model regulation in 2002, permits insurance companies to use the 2001 CSO Mortality Table in determining minimum reserve liabilities and nonforfeiture benefits with respect to life insurance policies. The CSO Mortality Table, which estimates how long people will live and is a key factor in determining how much people will pay for life insurance, was last revised in 1980. Because people have a longer life expectancy than they did three decades ago due to healthier lifestyles and medical advances, the 1980 CSO Mortality Table is now considered out-dated. Practically speaking, the longer policyholders live, the longer insurance companies get to hold onto, and invest, premium dollars. As a result, insurers can afford to charge less in premiums. To date, over half of the states have adopted the 2001 CSO Mortality Table and no jurisdiction has established an effective date after January 1, 2005. The Insurance Commissioner has been advised that insurers licensed in this state are actively developing products based on the 2001 CSO Mortality Table and that these insurers will not need any extended notice to implement them in West Virginia. This rule would allow West Virginia consumers and insurance companies to expeditiously reap the benefits that the use of the 2001 CSO Mortality Table is expected to produce. Accordingly, to delay the advantages born by the rule would be detrimental to the public's interest.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: November 1, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

EMERGENCY RULE TITLE: Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits, (TITLE 114, SERIES 69)

1. Date of Filing:

November 1, 2004

2. Statutory authority for promulgating emergency rule:

West Virginia Code §§ 33-2-10 and 33-7-9(d)(1)(C)(iii).

3. Date of filing of proposed legislative rule:

June 30, 2004

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

The emergency rule adds a new series, Series 68, to the Insurance Commission rules (Title 114 of the Code of State Rules). The rule is new.

5. Has the same or similar emergency rule previously been filed and expired?

No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety and welfare.

The emergency rule is not being promulgated for the immediate preservation of public peace, health, safety and welfare.

Recognition of the 2001 CSO Mortality Table for Use in Determining
Minimum Reserve Liabilities and Nonforfeiture Benefits
(TITLE 114, SERIES 69)
EMERGENCY

7. **If the emergency rule was promulgated in order to comply with a time limit established by the Code of federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.**

The emergency rule is not being promulgated in order to comply with a time limit established pursuant to a federal statute or regulation.

8. **State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to public interest.**

The emergency rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68. This rule, adopted by the National Association of Insurance Commissioners as a model regulation in 2002, permits insurance companies to use the 2001 CSO Mortality Table in determining minimum reserve liabilities and nonforfeiture benefits with respect to life insurance policies. The CSO Mortality Table, which estimates how long people will live and is a key factor in determining how much people will pay for life insurance, was last revised in 1980. Because people have a longer life expectancy than they did three decades ago due to healthier lifestyles and medical advances, the 1980 CSO Mortality Table is now considered outdated. Practically speaking, the longer policyholders live, the longer insurance companies get to hold onto, and invest, premium dollars. As a result, insurers can afford to charge less in premiums. To date, over half of the states have adopted the 2001 CSO Mortality Table and no jurisdiction has established an effective date after January 1, 2005. The Insurance Commissioner has been advised that insurers licensed in this state are actively developing products based on the 2001 CSO Mortality Table and that these insurers will not need any extended notice to implement them in West Virginia. This rule would allow West Virginia consumers and insurance companies to expeditiously reap the benefits that the use of the 2001 CSO Mortality Table is expected to produce. Accordingly, to delay the advantages born by the rule would be detrimental to the public's interest.

Insurance Commissioner
Emergency Rule
Title 114, Series 69

**RECOGNITION OF THE 2001 CSO MORTALITY TABLE
FOR USE IN DETERMINING MINIMUM RESERVE
LIABILITIES AND NONFORFEITURE BENEFITS**

TITLE 114, SERIES 69

BRIEF SUMMARY OF EMERGENCY RULE

This emergency rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68. This rule, adopted by the National Association of Insurance Commissioners as a model regulation in 2002, permits insurance companies to use the 2001 CSO Mortality Table in determining minimum reserve liabilities and nonforfeiture benefits with respect to life insurance policies. The CSO Mortality Table, which estimates how long people will live and is used to set life insurance premiums, was last revised in 1980. Because people have a longer life expectancy than they did three decades ago due to healthier lifestyles and medical advances, the 1980 CSO Mortality Table is now considered to be out-dated. A longer life expectancy should equate to lower insurance rates, potentially allowing for consumers to afford greater amounts of insurance. Accordingly, West Virginia consumers could benefit from the promulgation of this rule.

Insurance Commissioner
Emergency Rule
Title 114, Series 69

**RECOGNITION OF THE 2001 CSO MORTALITY TABLE
FOR USE IN DETERMINING MINIMUM RESERVE
LIABILITIES AND NONFORFEITURE BENEFITS**

TITLE 114, SERIES 69

STATEMENT OF CIRCUMSTANCES

A mortality table is a key factor in determining how much consumers pay for life insurance. The longer policyholders live, the longer the insurance companies get to hold onto premium dollars. As a result, insurers can afford to charge less in premiums. In 2002, the National Association of Insurance Commissioners adopted, through a model regulation, the 2001 Commissioners Standard Ordinary (CSO) Mortality Table. The CSO Mortality Table was last revised in 1980. Because people have a longer life expectancy than they did three decades ago due to healthier lifestyles and medical advances, the 1980 CSO Mortality Table is now considered to be out-dated. The proposed emergency rule permits insurers to use the updated CSO Mortality Table in calculating reserve levels with respect to life insurance policies.

APPENDIX B

FISCAL NOTE FOR PROPOSED EMERGENCY RULES

Rule Title: Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
Title 114, Series 69

Type of Rule: ___ **Legislative** ___ **Interpretive** ___ **Procedural**
 ___ **X** **Emergency**

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

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1. Effect of Proposed Emergency Rule

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None	None	None	None	None
PERSONAL SERVICES	None	None	None	None	None
CURRENT EXPENSE	None	None	None	None	None
REPAIRS AND ALTERNATIONS	None	None	None	None	None
EQUIPMENT	None	None	None	None	None
OTHER	None	None	None	None	None

2. Explanation of above estimates:

The rule will have no additional fiscal impact upon state, local or federal government.

3. Objectives of these emergency rules:

These rules are intended to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68. This rule, adopted by the National Association of Insurance

Rule Title: Recognition of the 2001 CSO Mortality Table for Use
in Determining Minimum Reserve Liabilities and
Nonforfeiture Benefits
Title 114, Series 69

Commissioners as a model regulation in 2002, permits insurance companies to use the 2001 CSO Mortality Table in determining minimum reserve liabilities and nonforfeiture benefits with respect to life insurance policies.

4. Explanation of Overall Economic Impact of Proposed Emergency Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.


This rule should have no economic impact on political subdivisions. It will only have an economic impact on certain insurance companies or their customers to the extent that the rule provides the use of a revised mortality table with respect to the valuation of life insurance policy reserves. The rule will have no economic impact on specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

There could be an economic impact to citizens or the public at large as a result of the promulgation of this rule, to the extent that it allows insurance companies to use a revised mortality table with respect to the valuation of life insurance policy reserves. Life insurance premiums charged to citizens may be affected by the use of this revised table.

Date: November 1, 2004

Signature of Agency Head or Authorized Representative


MARY JANE PICKENS, GENERAL COUNSEL

114CSR69

**EMERGENCY RULE
INSURANCE COMMISSIONER**

**SERIES 69
RECOGNITION OF THE 2001 CSO MORTALITY TABLE
FOR USE IN DETERMINING MINIMUM RESERVE
LIABILITIES AND NONFORFEITURE BENEFITS**

Section

- 114-69-1. General.
- 114-69-2. Definitions.
- 114-69-3. 2001 CSO Mortality Table.
- 114-69-4. Conditions.
- 114-69-5. Applicability of the 2001 CSO Mortality Table to WV 114CSR68.
- 114-69-6. Gender-Blended Tables.
- 114-69-7. Separability.

114CSR69

**EMERGENCY RULE
INSURANCE COMMISSIONER**

**SERIES 69
RECOGNITION OF THE 2001 CSO MORTALITY TABLE
FOR USE IN DETERMINING MINIMUM RESERVE
LIABILITIES AND NONFORFEITURE BENEFITS**

§114-69-1. General.

1.1. Scope. -- The purpose of this rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68.

1.2. Authority. -- This rule is promulgated pursuant to the authority of W. Va. Code §§33-2-10 and 33-7-9(d)(1)(C)(iii).

1.3. Filing Date. -- November 1, 2004.

1.4. Effective Date. --

§114-69-2. Definitions.

2.1. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

2.2. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2.3. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

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2.4. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

2.5. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

§114-69-3. 2001 CSO Mortality Table.

3.1. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this rule, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in subsection 3.2 of this rule to which W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

3.2. Subject to the conditions stated in this rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which W. Va. Code §§33-9-7(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsections 4.1 and 4.2 of WV 114CSR68 are applicable.

§114-69-4. Conditions.

4.1. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

a. Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

b. Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by W. Va. Code §33-9-7(k) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

c. Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

4.2. For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

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4.3. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of WV 114CSR68 and section 5 of this rule relative to use of the select and ultimate form.

4.4. When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in section 4 of WV 114CSR41. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

§114-69-5. Applicability of the 2001 CSO Mortality Table to WV 114CSR68.

5.1. The 2001 CSO Mortality Table may be used in applying WV 114CSR68 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table set forth in subsections 3.1 and 3.2 of this rule:

a. Paragraph 2, subdivision b, subsection 2.2 of WV 114CSR68: The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

b. Subsection 3.2 of WV 114CSR68: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in subdivision d of this subsection. The value of " $qx+k+t-1$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

c. Subsection 4.1 of WV 114CSR68: The 2001 CSO Mortality Table is the minimum standard for basic reserves.

d. Subsection 4.2 of WV 114CSR68: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in paragraphs 1 through 9 of subdivision c of subsection 4.2. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice.

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e. Subsection 5.3 of WV 114CSR68: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

f. Subdivision d, subsection 5.5 of WV 114CSR68: The calculations specified in subsection 5.5 shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

g. Subdivision d, subsection 5.6 of WV 114CSR68: The calculations specified in subsection 5.6 shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

h. Subdivision b, subsection 5.7 of WV 114CSR68: The calculations specified in subsection 5.7 shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

i. Paragraph 2, subdivision a, subsection 6.1 of WV 114CSR68: The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

5.2. Nothing in this section shall be construed to expand the applicability of WV 114CSR68 to include life insurance policies exempted under subsection 2.2 of that rule.

§114-69-6. Gender-Blended Tables.

6.1. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the rule.

6.2. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

6.3. It shall not, in and of itself, be a violation of article eleven, chapter thirty-three of the West Virginia Code (W. Va. Code §§33-11-1 et seq.) for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

§114-69-7. Separability.

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Title 114, Series 69

7.1. If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected.



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

BOB WISE
Governor

JANE L. CLINE
Insurance Commissioner

November 1, 2004

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, West Virginia 25305

FILED
2004 NOV - 1 P 4: 09
OFFICE WEST VIRGINIA
SECRETARY OF STATE

RE: **SERIES 68 - VALUATION OF LIFE INSURANCE POLICIES**
**SERIES 69 - RECOGNITION OF THE 2001 COMMISSIONERS STANDARD
ORDINARY MORTALITY TABLE FOR USE IN DETERMINING
MINIMUM RESERVE LIABILITIES AND NONFORFEITURE
BENEFITS WITH RESPECT TO LIFE INSURANCE**

Dear Judy:

Please find herewith fourteen (14) copies of the following for the above subject emergency rules:

- 1) Notice Of An Emergency Rule and consent of the Department of Revenue Cabinet Secretary;
- 2) Legislative Rule-making Review Committee Questionnaire;
- 3) Brief Summary of the Rule;
- 4) Statement of Circumstances;
- 5) Fiscal Note; and
- 6) The proposed emergency rule.

Please contact our office if you have any questions regarding the above or if further information is required.

Sincerely,

Mary Jane Pickens
General Counsel

MJP/jz
Attachments