

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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2007 MAY 30 PM 4:10
OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

RULE TYPE: Legislative CITE AUTHORITY §§33-2-10 and 33-7-9(d)(1)(C)(iii)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____


IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 69A

TITLE OF RULE BEING PROPOSED: Recognition of Preferred Mortality Tables For Use In Determining
Minimum Reserve Liabilities

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 7/2/07 AT 12 noon. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Timothy R. Murphy, Associate Counsel
Offices of the Insurance Commissioner
P.O. Box 50540
Charleston, WV 25305-0540

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


James Robert Alsop
Cabinet Secretary
West Virginia Department of Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Insurance Commissioner
Legislative Rule
Title 114, Series 69A

**RECOGNITION OF PREFERRED MORTALITY TABLES
FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES**

TITLE 114, SERIES 69A

BRIEF SUMMARY OF RULE

This amendment recognizes, permits and prescribes the use of the Regulation Permitting the Recognition of Preferred Mortality Tables For Use in Determining Minimum Reserve Liabilities (NAIC model 814) in accordance with WV Code §§33-7-9(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii) and subsection 4.1 and 4.2 of WV 114 CSR 68. This table was recently adopted by the National Association of Insurance Commissioners as a model regulation in October 2006. The tables reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities for life insurance policies and allows insurance companies to substitute this table in place of the 2001 CSO Standard Mortality Table (114 CSR 69). The existing 2001 CSO Mortality Table does not make allowances for preferred mortality underwriting classes, and therefore can be extremely conservative for life insurance policies. These mortality tables reduce reserve requirements for products with the most significant reserve redundancies, thereby allowing companies to deliver a more appropriately priced life insurance policy to consumers. These new tables are for the valuation of reserves, and thus do not require a filing or a re-filing and approval of policy forms by the West Virginia Insurance Commissioner to be fully implemented.

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**RECOGNITION OF PREFERRED MORTALITY TABLES
FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES**

TITLE 114, SERIES 69A

STATEMENT OF CIRCUMSTANCES

This rule represents an update of mortality rate tables for use in determining the necessary reserves of life insurance companies. It is intended to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining the minimum reserve liabilities for life insurance companies, in accord with WV Code §§33-7-9(d)(1)(C)(iii) and 33-13-30(4c)(h)(vii). It adopts the 2001 Mortality Tables developed by the American Academy of Actuaries and adopted by the National Association of Insurance Commissioners in December 2002 (model 815). It may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. A majority of states have already adopted the new tables or are in the process of doing so.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Recognition of Preferred Mortality Tables For Use In Determining Minimum Reserve Liabilities (Title 114 - Series 69A)

Type of Rule: Legislative Interpretive Procedural Emergency

Agency: Insurance Commissioner

Address: Post Office Box 50540

1124 Smith Street, Greenbrooke Building

Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: _____

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Recognition of Preferred Mortality Tables For Use In Determining Minimum Reserve Liabilities (Title 114 - Series 69A)

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: _____

Signature of Agency Head or Authorized Representative

Jane L. Cline, Insurance Commissioner

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**LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 69A
RECOGNITION OF PREFERRED MORTALITY TABLES FOR
USE IN DETERMINING MINIMUM RESERVE LIABILITIES**

Section

- 114-69A-1. General.
- 114-69A-2. Definitions.
- 114-69A-3. 2001 CSO Preferred Class Structure Table.
- 114-69A-4. Conditions.
- 114-69A-5. Separability.

FILED

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LEGISLATIVE RULE
INSURANCE COMMISSIONER

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 69A

RECOGNITION OF PREFERRED MORTALITY TABLES FOR
USE IN DETERMINING MINIMUM RESERVE LIABILITIES

§114-69A-1. General.

1.1. Scope. -- The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with W. Va. Code §§33-7-9(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. -- March 21, 2007.

1.4. Effective Date. -- April 3, 2007.

§114-69A-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)* and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in subdivision b. 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. Mortality tables in the 2001 CSO Mortality Table include the following:

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

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

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

2.2. "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for super preferred nonsmokers, preferred nonsmokers, residual standard nonsmokers, preferred smokers, and residual standard smoker splits of the 2001 CSO Nonsmoker and Smoker Tables, as adopted by the NAIC at the September, 2006 national meeting and published in the *NAIC Proceedings {3rd Quarter 2006}*. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

2.3. "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

§114-69A-3. 2001 CSO Preferred Class Structure Table.

3.1. At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this rule, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of WV 114 CSR 69.

§114-69A-4. Conditions.

4.1. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual

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standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

4.2. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

a. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

4.3. Unless exempted by the commissioner, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this rule. The form of the reports shall be established by the commissioner or the commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the commissioner.

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§114-69A-5. Separability.

5.1. If any provisions 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.