

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

Form #3

Do Not Mark In this Box

2007 JUL 27 PM 4:01

SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY WV Code §33-2-10 and 33-7-9(d)(1)(C)(iii)

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X

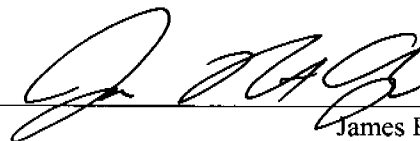
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



James Robert Alsop  
Cabinet Secretary  
West Virginia Department of Revenue

## 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:** July 27, 2007

**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

**LEGISLATIVE RULE TITLE:** Recognition of Preferred Mortality Tables  
For Use In Determining Minimum Reserve  
Liabilities - Title 114, Series 69A

**1. Authorizing statute(s) citation:**

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

**2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:**

May 30, 2007 - Comment Period.

**b. What other notice, including advertising, did you give of the hearing?**

N/A

**c. Date of Public Hearing(s) or Public Comment Period ended:**

Comment period ended July 2, 2007.

**d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached   X   No comments received           

**e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)**

July 27, 2007 (following Public Comment Period).

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Timothy R. Murphy, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: (304) 558-6279, Ext. 1210  
Fax: (304) 558-1362  
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

N/A

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

N/A

114 CSR 69A

Attachment to question 2(d)

The American Council of Life Insurers (ACLI) submitted a comment supporting the rule amendment generally. However, ACLI expressed a concern that the proposed effective date of April 1, 2007 would require companies to calculate reserves twice when preparing their 2007 statements. ACLI also noted that to date 22 states have adopted the new mortality tables with the effective date used in the model, January 1, 2007, and that 23 others are pursuing adoption with the same effective date; use of a uniform effective date will allow companies to perform a single calculation of its reserves for use in their 2007 annual statements with respect to products covered by the new tables. Inasmuch as reserves are generally maintained in one system, such an additional calculation would have to be made manually and would entail significant additional costs.

For the reasons advanced by ACLI, the Commissioner agrees that an effective date of January 1, 2007 should be used and, therefore, the proposed rule will be changed accordingly to add an internal effective date of January 1, 2007 in §3.1 [An emergency rule amending series 69A expired in May 2007 when notice of a public hearing on the proposed rule was not filed within 30 days of the filing of the emergency rule. See W.Va. Code §29A-3-15a(a)(2) & (c)].



*Leah J. Walters*  
Counsel, State Relations

June 29, 2007

Mr. Timothy R. Murphy  
Associate Counsel  
Offices of the Insurance Commissioner  
1124 Smith Street  
Charleston, WV 25305

**RE: Proposed Series 69A, Recognition of Preferred Mortality Tables For Use in Determining Minimum Reserve Liabilities**

Dear Mr. Murphy:

This letter is submitted on behalf of the American Council of Life Insurers (ACLI), a national trade association of legal reserve life insurance companies whose 373 member companies account for 93 percent of total assets, 91 percent of the life insurance premiums, and 95 percent of annuity considerations in the United States. Two hundred and ninety six ACLI member companies are licensed to do business in West Virginia and account for 93 percent of life insurance premiums and 97 percent of annuity considerations. ACLI appreciates the opportunity to comment on the above-captioned proposed Rule regarding Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities.

ACLI commends the West Virginia Insurance Department for adopting this proposed Rule. The adoption of this Rule reflects differences in mortality in determining the minimum liabilities for certain life insurance products and is an important interim step towards a principles-based reserving system. ACLI also commends the West Virginia Insurance Department for adopting this Rule in accordance with the NAIC 2001 CSO Preferred Class Structure Mortality Table, adopted in September, 2006.

ACLI is concerned, however, with the adoption of this Rule as a Legislative Rule because of the possible 2008 effective date. It is extremely important that the preferred mortality table be adopted and effective for policies issued on or after January 1, 2007 as this is the date that was adopted by the NAIC and it is the date that is being used in the states that have adopted the preferred mortality table. To date, 22 states have adopted the NAIC Model Regulation and 23 states have either taken formal action to do so or have expressed agreement to do so. If this proposed Rule is not adopted until sometime in 2008, ACLI is concerned that insurers will not be able to use the preferred mortality tables in West Virginia when calculating their reserves for their 12/31/2007 annual statement (which is generally prepared in February of 2008).

In addition, Section 114-69A-3.1 provides that such preferred mortality tables can be used for policies issued on or after April 1, 2007. ACLI respectfully suggests that the proposed Rule be amended to change this date to January 1, 2007. Another reason for using a January 1, 2007 effective date is because companies calculate their reserves on a calendar year basis. If West Virginia adopts this Rule with an April 1, 2007 effective date, companies will have to calculate their reserves twice, once for

Mr. Timothy R. Murphy

Page 2

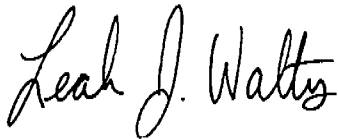
June 29, 2007

policies before April 1, 2007 and once for policies after April 1, 2007. Because insurance companies generally maintain only one reserve system, this will be administratively very difficult for companies to do. A portion of the reserves will most likely have to be calculated manually and that will be an administrative and costly burden for insurers.

For the above reasons, ACLI would respectfully suggest that the West Virginia Insurance Department continue to pursue the adoption of this proposed Rule via an Emergency Rule. ACLI would also respectfully suggest that Section 114-69A-3.1 be amended to apply to policies written on or after January 1, 2007.

ACLI appreciates the commitment the West Virginia Insurance Department has made regarding the adoption of this Rule and if there is any assistance we can provide you regarding the adoption of this Rule via an Emergency Rule please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Leah J. Walters". The signature is written in black ink and is positioned below the word "Sincerely,".

Leah J. Walters

Legislative Director - Mid-Atlantic States

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.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 69A

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	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: July 27, 2007

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
Jane I. Cline, Insurance Commissioner

**114CSR69A**

**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.

114CSR69A

LEGISLATIVE RULE  
INSURANCE COMMISSIONER

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

RECEIVED

2007 JUL 27 PM 4:01

SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**§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. --

1.4. Effective Date. --

**§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.

**Insurance Commissioner**  
**Title 114, Series 69A**  
**Legislative Rule**

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 {3<sup>rd</sup> 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

**Insurance Commissioner  
Title 114, Series 69A  
Legislative Rule**

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.