

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

Form #3

~~Do Not Mark In this Box~~

2008 AUG 29 PM 3: 41

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**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 W. Va. Code §§33-2-10

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

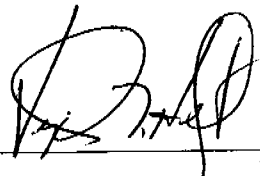
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 86

TITLE OF RULE BEING PROPOSED: Preneed Life Insurance Minimum Standards for Determining Reserve  
Liabilities and Nonforfeiture Values

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.



Virgil T. Helton  
Cabinet Secretary  
West Virginia Department of Revenue

Offices of the Insurance Commissioner  
Legislative Rule  
Title 114, Series 86

**PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING RESERVE  
LIABILITES AND NONFORFEITURE VALUES**

**TITLE 114, SERIES 86**

**BRIEF SUMMARY OF RULE**

The purpose of this regulation is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products.

Research completed by the Deloitte University of Connecticut Actuarial Center and commissioned by the Society of Actuaries as a part of a study of preneed mortality determined that the 2001 CSO Mortality Table, currently recognized as the prevailing table for the purposes of calculating reserves and nonforfeiture values both on a statutory basis and on a tax basis, produced inadequate reserves for policies issued in support of a prearrangement agreement which provides goods and services at the time of an insured's death.

## 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:** August 29, 2008

**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:** Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values, Title 114, Series 86

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

WV Code §33-2-10-10

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

June 18, 2008- 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:**

July 21, 2008.

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

Attached \_\_\_\_\_ No comments received  X

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

August 29, 2008 (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

Offices of the Insurance Commissioner  
Legislative Rule  
Title 114, Series 86

**PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING RESERVE  
LIABILILITIES AND NONFORFEITURE VALUES**

**TITLE 114, SERIES 86**

**STATEMENT OF CIRCUMSTANCES**

After a UConn actuarial study concluded that the use of the recent 2001 mortality tables (used in almost all states for determining reserves for life insurers and only adopted in West Virginia for use beginning January 1, 2007) would lead to companies maintaining inadequate reserves to guarantee payment of policies bought to fund preneed funeral contracts, the National Association of Insurance Commissioners began the model law process in 2006 that led to the adoption of the model law that is the basis for this regulation. In addition, various industry and regulatory groups (including some involved in the preneed business) are urging immediate adoption of the model to avoid the potential problems caused by under-reserving.

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Model (Title 114, Series 86)

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Offices of the Insurance Commission

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

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

**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>                 |  |   |   |
|------------------------------------|--|---|---|
| <b>Effect of Proposal</b>          | <b>Current Increase/Decrease (use "-")</b> | <b>Next Increase/Decrease (use "-")</b> | <b>Fiscal Year (Upon Full Implementation)</b> |
| <b>1. Estimated Total Cost</b>     | N/A  | N/A                                     | N/A   |
| Personal Services                  | N/A  | N/A                                     | N/A   |
| Current Expenses                   | N/A  | N/A                                     | N/A   |
| Repairs & Alterations              | N/A  | N/A                                     | N/A   |
| Assets                             | N/A  | N/A                                     | N/A   |
| Equipment                          | N/A  | N/A                                     | N/A   |
| Other                              | N/A  | N/A                                     | N/A   |
| <b>2. Estimated Total Revenues</b> | N/A  | N/A                                     | N/A   |

Rule Title: Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Model (Title 114, Series 86)

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

\_\_\_\_\_  
Timothy Murphy, Associate Counsel

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 86  
PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING  
RESERVE LIABILITIES AND NONFORFEITURE VALUES**

Section.

- 114-86-1. General.
- 114-86-2. Definitions.
- 114-86-3. Minimum Valuation Mortality Standards.
- 114-86-4. Minimum Valuation Interest Rate Standards.
- 114-86-5. Minimum Valuation Method Standards.
- 114-86-6. Transition Rules.

FILED

TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIS 86  
PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING  
RESERVE LIABILITIES AND NONFORFEITURE VALUES

**§114-86-1. General.**

1.1. Scope. -- This rule establishes minimum mortality standards to be used in determining reserve and nonforfeiture values for insurance policies used to fund preneed funeral contracts. This rule is based on the National Association of Insurance Commissioners' "Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Model Regulation" (Model 817) adopted in March, 2008.

1.2. Authority. -- W. Va. Code §33-2-10.

1.3. Filing Date. --

1.4. Effective Date. --

**§114-86-2. Definitions.**

2.1. The term "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 set forth in W. Va. Code of St. R. §114 CSR 69. 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. The term "Ultimate 1980 CSO" means the National Association of Insurance Commissioners' 1980 standard ordinary mortality table (1980 CSO Table), without ten-year selection mortality factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law and referenced in W. Va. Code §33-7-9(d)(1)(C).

2.3. "Preneed insurance policy" means a life insurance policy, annuity contract or other insurance contract issued by an insurance company which, whether by assignment or otherwise, has for its purpose the funding of a preneed funeral contract.

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**Legislative Rule**  
**Title 114, Series 86**

2.4. "Preneed funeral contract" means any contract that is financed by the purchase of an insurance policy or annuity under which a person promises to furnish or make available funeral services, funeral goods or burial goods for use at a time determinable by the death of the contract beneficiary who is either named or implied therein.

**§114-86-3. Minimum Valuation Mortality Standards.**

For preneed insurance contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

**§114-86-4. Minimum Valuation Interest Rate Standards.**

4.1. The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in W. Va. Code §33-7-9.

4.2. The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in W. Va. Code §33-13-30.

**§114-86-5. Minimum Valuation Method Standards.**

5.1. The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in W. Va. Code §33-7-9.

5.2. The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in W. Va. Code §33-13-30.

**§114-86-6. Transition Rules.**

6.1. For preneed insurance policies issued on or after the effective date of this rule and before January 1, 2012, the 2001 CSO mortality table may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

6.2. If an insurer elects to use the 2001 CSO mortality table as a minimum standard for any policy issued on or after the effective date of this rule and before January 1, 2012, the insurer shall provide, as part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

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a. A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

b. A certification signed by the appointed actuary stating that the reserve methodology employed by the insurer in determining reserves develops adequate reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard. For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies; and

c. Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard for reserves.

6.3. Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.