

PROPOSED RULEMAKINGS

INSURANCE DEPARTMENT

[31 PA. CODE CH. 84b]

Actuarial Opinion and Memorandum

The Insurance Department (Department) proposes to amend Chapter 84b (relating to actuarial opinion and memorandum) to read as set forth in Annex A. This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and section 301 of The Insurance Department Act of 1921 (40 P. S. § 71).

Purpose

The purpose of the proposed rulemaking is to update Chapter 84b to include amendments made by the National Association of Insurance Commissioners (NAIC) to Model Regulation 822, "Actuarial Opinion and Memorandum Regulation." Model Regulation 822 requires life insurance companies and fraternal benefit societies to submit actuarial opinions based on an asset adequacy analysis, commonly known as "Section 8 opinions." The amendments to § 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary) are proposed in conjunction with proposed amendments to Chapter 84c (relating to valuation of life insurance policies), which removes restrictions on the mortality adjustment factors (X factors) in deficiency reserve calculations. Specifically, the amendments to Chapter 84b modify requirements for the content of a regulatory asset adequacy issues summary of the actuarial memorandum to require the inclusion of a statement regarding the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

A copy of the copyrighted NAIC model regulation was provided to the legislative standing committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Regulatory Requirements

The following is a description of the changes in the proposed rulemaking:

Section 84b.9 is amended to comply with amendments to the NAIC model regulation. This proposed rulemaking provides that a statement of "the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods" is an example of the type of comments on interim results that shall be included by the appointed actuary in the regulatory asset adequacy issues summary required by Chapter 84b.

Affected Parties

The proposed rulemaking will apply to life insurance companies and fraternal benefit societies doing business in this Commonwealth.

Fiscal Impact

State government

There will not be an increase in cost to the Department as a result of the adoption of the proposed rulemaking. As part of its solvency monitoring responsibilities, the Department currently reviews statements of actuarial opinion and supporting memoranda. Thus, this proposed rulemaking will not require additional staff time or resources to perform the analysis.

General public

Since the proposed rulemaking concerns the solvency requirements applied to insurers, the public will benefit from a financially sound insurance industry that has the ability to fulfill its contractual obligations under life insurance policies.

Political subdivisions

The proposed rulemaking will not impose additional costs on political subdivisions. However, because the proposed rulemaking promotes stability in this Commonwealth's insurance industry, political subdivisions' tax revenues would benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment and would also increase incentives for insurers to market new insurance products in this Commonwealth.

Private sector

The proposed rulemaking will not impose additional costs on insurers.

Paperwork

The adoption of this proposed rulemaking will not impose additional paperwork on the Department.

Effectiveness/Sunset Date

The proposed rulemaking will become effective on the first of the month following 60 days from the publication date of the final-form rulemaking. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, a sunset date has not been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120 within 30 days following the publication in the *Pennsylvania Bulletin*. Questions or comments also may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.12), the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve the stakeholders, the Department determined that all commentators will receive a copy of the final-form rulemaking when it is made available to the IRRC and the legislative standing committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 24, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate Banking and Insurance Com-

mittee and the House Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

JOEL SCOTT ARIO,
Insurance Commissioner

(Editor's Note: For a proposed rulemaking amending Chapter 84c relating to this proposed rulemaking, see 40 Pa.B. 5069 (September 4, 2010).)

Fiscal Note: 11-244. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 84b. ACTUARIAL OPINION AND MEMORANDUM

§ 84b.9. Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.

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(c) *Details of the regulatory asset adequacy issues summary.*

(1) The regulatory asset adequacy issues summary must include the following:

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(iv) Comments on any interim results that may be of significant concern to the appointed actuary **(for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods).**

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[Pa.B. Doc. No. 10-1627. Filed for public inspection September 3, 2010, 9:00 a.m.]

[31 PA. CODE CH. 84d]

Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and the 2001 CSO Preferred Class Structure Mortality Table for Use in Determining Minimum Reserve Liabilities

The Insurance Department (Department) proposes to amend Chapter 84d (relating to recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities) to read as set forth in Annex A. The rulemaking is proposed under the authority of sections 206, 506, 1501, 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411, 412), section 301(c)(1) of The Insurance Department Act of 1921

(40 P. S. § 71(c)(1)), section 410A(e)(8)(F) of The Insurance Company Law of 1921 (40 P. S. § 510.1(e)(8)(F)) and the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15). See § 84c.5(a) and (b) (relating to general requirements for basic reserves and premium deficiency reserves).

Purpose

Section 301(c)(1) of The Insurance Department Act of 1921 authorizes the Insurance Commissioner (Commissioner) to promulgate regulations specifying new mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC) for use in determining minimum valuation standards. The purpose of the proposed rulemaking is to update Chapter 84d to include amendments made by the NAIC to Model Regulation 815, "Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities." Model Regulation 815 recognizes, permits and prescribes the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities. A copy of the copyrighted NAIC model regulation was provided to the legislative standing committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Regulatory Requirements

The following is a description of the changes in the proposed rulemaking:

Section 84d.3a (relating to 2001 CSO Preferred Class Structure Mortality Table) is amended to recognize that a company may substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Smoker or Nonsmoker Mortality Table with the consent of the Commissioner if the conditions in § 84d.3a are met. Proposed subsection (f) specifies two cases when a company is not permitted to use the 2001 CSO Preferred Class Structure Table for valuation of policies issued prior to January 1, 2007.

Affected Parties

The proposed rulemaking will apply to insurers issuing life insurance coverage in this Commonwealth.

Fiscal Impact

State government

There will not be an increase in cost to the Department due to the use of the new mortality table since the extent of the analysis performed by the Department is not affected by the mortality table used in the calculation of reserves.

General public

It is possible that the cost of insurance will be reduced for consumers who purchase life insurance coverage due to improved mortality recognized by the 2001 CSO Preferred Class Structure Mortality Table.

Political subdivisions

There will not be fiscal impact on political subdivisions as insurers will continue to maintain adequate reserves.

Private sector

The use of the 2001 CSO Preferred Class Structure Mortality Table generally will reduce the reserve liabilities of an insurance company. In addition, the use of the table is optional.

Paperwork

The proposed rulemaking will not impose additional paperwork on the Department. An insurance company that elects to use the 2001 CSO Preferred Class Structure Mortality Table as the minimum valuation standard will be required to submit at election and annually thereafter a certification to the Commissioner that the conditions for use of the table are satisfied.

Effectiveness/Sunset Date

The proposed rulemaking will become effective on the first of the month following 60 days from the publication date of the final-form rulemaking. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, a sunset date has not been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120 within 30 days following the publication in the *Pennsylvania Bulletin*. Questions or comments also may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.12), the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve the stakeholders, the Department determined that all commentators will receive a copy of the final-form rulemaking when it is made available to the IRRC and the legislative standing committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 24, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

JOEL SCOTT ARIO,
Insurance Commissioner

(Editor's Note: For a proposed rulemaking amending Chapter 84c relating to this proposed rulemaking, see 40 Pa.B. 5069 (September 4, 2010).)

Fiscal Note: 11-246. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 84d. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS AND THE 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

§ 84d.3a. 2001 CSO Preferred Class Structure Mortality Table.

(a) 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 chapter, 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. **For policies issued on and after January 1, 2004, and prior to January 1, 2007, these tables may be substituted as the minimum valuation standard with the consent of the Commissioner subject to the conditions of subsections (b)—(g). In determining consent, the Commissioner may rely on the consent of the chief insurance regulatory official of the company's state of domicile.** Prior to that election, the company shall demonstrate to the satisfaction of the Commissioner that at least 20% of the business to be valued on this table is in one or more of the preferred classes.

* * * * *

(f) **The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007, is not permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following cases:**

(1) **When the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that provides coverage for the period from the next policy premium due date to the earlier of the end of the policy year and the next reinsurance premium due date, and would be refunded to the ceding entity upon the termination of the policy.**

(2) **When the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.**

(g) **For purposes of the conditions set forth in subsection (f), both the reserve credit and the gross reserve before reinsurance for the mean reserve**

method are defined as the mean reserve minus the deferred premium asset, and for the mid-terminal reserve method must include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis to meet the conditions to use the 2001 CSO Preferred Class Structure Table.

[Pa.B. Doc. No. 10-1628. Filed for public inspection September 3, 2010, 9:00 a.m.]

[31 PA. CODE CH. 84c]

Valuation of Life Insurance Policies

The Insurance Department (Department) proposes to amend Chapter 84c (relating to valuation of life insurance policies) to read as set forth in Annex A. This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and section 301(c) of The Insurance Department Act of 1921 (40 P. S. § 71(c)).

Purpose

The purpose of the proposed rulemaking is to amend § 84c.5 (relating to general requirements for basic reserves and premium deficiency reserves) to include amendments to Model Regulation 830 by the National Association of Insurance Commissioners (NAIC) to remove restrictions on mortality adjustment factors. These amendments are proposed in conjunction with amendments to Chapters 84b and 84d (relating to actuarial opinion and memorandum; and recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities). A copy of the copyrighted NAIC model regulation was provided to the legislative standing committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Regulatory Requirements

The following is a description of the changes in the proposed rulemaking:

Section 84c.5 is being amended to delete restrictions on the mortality adjustment factors (X factors) in the deficiency reserve calculation required by the regulation. Additionally, the proposed rulemaking requires an appointed actuary to annually opine for policies subject to this regulation as to whether the mortality rates resulting from the application of the X factors meet the regulation's requirements for deficiency reserves. Further, this regulation requires that the opinion be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries.

Affected Parties

The proposed rulemaking will apply to insurers issuing life insurance coverage in this Commonwealth.

Fiscal Impact

State government

There will not be an increase in cost to the Department due to the proposed rulemaking. The Department currently reviews valuation filings submitted by domestic life insurance companies and fraternal benefit societies for compliance with the minimum standards of valuation.

General public

It is possible that the cost of insurance will be reduced for consumers who purchase life insurance coverage due to this proposed rulemaking to the requirements for the calculation of reserves.

Political subdivisions

There will not be fiscal impact on political subdivisions as insurers will continue to maintain adequate reserves.

Private sector

The model regulation requires the appointed actuary to annually opine for policies subject to this regulation as to whether the mortality rates resulting from the application of the X factors meet the requirements of Chapter 84c for deficiency reserves. This opinion must be supported by an actuarial report.

Paperwork

The adoption of this proposed rulemaking would not impose additional paperwork on the Department.

Effectiveness/Sunset Date

The rulemaking will become effective on the first of the month following 60 days from the publication date of the final-form rulemaking. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, a sunset date has not been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120 within 30 days following the publication in the *Pennsylvania Bulletin*. Questions or comments also may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.12), the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final form rulemaking. To better serve the stakeholders, the Department determined that all commentators will receive a copy of the final-form rulemaking when it is made available to the IRRC and the legislative standing committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 24, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior

to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

JOEL SCOTT ARIO,
Insurance Commissioner

(Editor's Note: For a proposed rulemaking amending Chapter 84b relating to this proposed rulemaking, see 40 Pa.B. 5066 (September 4, 2010).)

(Editor's Note: For a proposed rulemaking amending Chapter 84d relating to this proposed rulemaking, see 40 Pa.B. 5067 (September 4, 2010).)

Fiscal Note: 11-247. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 84c. VALUATION OF LIFE INSURANCE POLICIES

§ 84c.5. General requirements for basic reserves and premium deficiency reserves.

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(b) Deficiency reserves minimum standard. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables (or any other valuation mortality table adopted by the NAIC after May 6, 2000, and promulgated by regulation by the Commissioner for the purpose of calculating deficiency reserves) with select mortality factors. If select mortality factors are elected, they may be one of the following:

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(3) For durations in the first segment, X% of the select mortality factors in Appendix A, subject to the following:

(i) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience.

(ii) [X may not be less than 20%.

(iii) X may not decrease in any successive policy years.

(iv)] X is such that, when using the valuation interest rate used for basic reserves, the actuarial present value of

future death benefits, calculated using the mortality rates resulting from the application of X, is greater than or equal to the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date.

[(v)] (iii) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5 years after the valuation date.

[(vi)] (iv) The appointed actuary shall increase X at any valuation date when it is necessary to continue to meet [all] the requirements of this paragraph [(3)].

[(vii)] (v) The appointed actuary may decrease X at any valuation date as long as X [does not decrease in any successive policy years and as long as it] continues to meet [all] the requirements of this paragraph [(3)].

[(viii)] (vi) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

[(ix)] (vii) If X is less than 100% at any duration for any policy, the following requirements shall be met:

(A) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with § 84b.8 (relating to statement of actuarial opinion based on an asset adequacy analysis).

(B) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

(C) The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of this paragraph [(3)]. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

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