SUBCHAPTER MM. PREFERRED MORTALITY TABLES
28 TAC §3.9403 and §3.9404

1. INTRODUCTION. The Texas Department of Insurance proposes amendments to §3.9403 and §3.9404, concerning the minimum reserve standards for life insurance. The proposed amendments to §3.9403 and §3.9404, relating to preferred mortality tables, are necessary to (i) allow life insurance companies the option to substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Mortality Table as the minimum valuation standard for contracts issued on or after May 1, 2003, and prior to January 1, 2007, subject to certain specified conditions; (ii) make several reorganizational changes to existing §3.9403 for better organization and clarity of the proposed and existing rules; and (iii) correct a rule citation style error in proposed new §3.9403(d). The proposed amendments to §3.9403 and §3.9404 are modeled after and consistent with the National Association of Insurance Commissioner's (NAIC's) currently adopted Model Regulation 815. The proposed amendments also are expected to align reserve mortality to expected mortality for certain policies issued by life insurance companies, while retaining reasonable conservatism in reserves for these policies. As a result, the proposed amendments are expected to reduce excessive reserves not needed to support benefits.

The following is a more detailed discussion of the proposed amendments.

The proposed amendments to §3.9403 and §3.9404 are necessary to allow insurance companies the option to calculate reserves using the 2001 CSO

Preferred Class Structure Mortality Table for policies issued on and after May 1, 2003, and prior to January 1, 2007, in lieu of using the 2001 CSO Mortality Table, subject to meeting certain specified conditions. Additionally, the proposed amendments to §3.9403 are necessary to re-organize existing subsection (a) into subsections (a), (c), and (d), add a new subsection (b), and redesignate existing subsection (b) into subsection (e) for purposes of better organization and clarity of the proposed and existing rules. Subsection titles are proposed to assist in organization and provide clarity. The proposed amendment to §3.9403(a) adds the subsection title “Policies Issued On or After January 1, 2007” to assist in clarifying the applicability of the 2001 CSO Preferred Class Structure Mortality Table to policies issued during this timeframe. Proposed new §3.9403(b) adds the subsection title “Policies Issued On or After May 1, 2003, and Prior to January 1, 2007” to assist in clarifying the applicability of the 2001 CSO Preferred Class Structure Mortality Table to policies issued during this timeframe. Proposed new §3.9403(b) also specifies that an insurer may elect to use of the 2001 CSO Preferred Class Structure Mortality Table as the minimum valuation standard for these policies, subject to the consent of the Commissioner and the conditions of §3.9404. Proposed new §3.9403(c) adds the subsection title “Requirements to Make Election” and changes the existing reference to “No such election” to “No election in subsection (a) or (b)”. These proposed amendments are necessary to clarify the applicability of certain requirements for an insurer that elects to use the 2001 CSO Preferred Class Structure Mortality Table under either the proposed amendments to §3.9403(a) or under proposed new

§3.9403(b). Proposed new §3.9403(d) adds the subsection title "2001 CSO Preferred Class Structure Mortality Table Treatment" to assist in clarifying that this preferred table is considered part of the 2001 CSO Mortality Table for purposes of reserves. Proposed new §3.9403(d) also replaces the word "title" with "chapter" to conform to current *Texas Register* citation style. Newly redesignated §3.9403(e) (§3.9403(b) in existing rules) adds the subsection title "Adoption by Reference" to assist in clarifying that this redesignated subsection concerns the adoption by reference of the 2001 CSO Preferred Class Structure Mortality Table. Proposed new §3.9404(d) is necessary to enumerate the conditions to be met before an insurance company can utilize the optional minimum reserve standard for life insurance policies issued prior to January 1, 2007. The conditions require certain accounting treatment relating to the reinsurance of an insurance company's life insurance policies, and focuses on the appropriate amount of reinsurance credit to be taken. Specifically, the conditions require an aggregate adjustment to compensate for any excess reinsurance credit in order to use the preferred tables for reserves for policies issued prior to January 1, 2007. Current requirements in existing §3.9403 and §3.9404 already allow for the 2001 CSO Preferred Class Structure Mortality Table to be used for policies issued on and after January 1, 2007. Additionally, current requirements in existing rules also require an annual actuarial certification from the appointed actuary which supports the use of these preferred tables for reserves.

2. FISCAL NOTE. Mr. Danny Saenz, Senior Associate Commissioner, Financial Program, has determined that, for each year of the first five years the proposed amendments will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Saenz also has determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefit will be improved standards of reserves for life insurance by reducing reserve redundancies due to mortality assumed in reserves which is significantly greater than mortality expected in business issued. Redundant reserves, also referred to as excessive reserves, are those reserves not needed to support benefits. Redundant reserves increase costs to insurance companies and may increase costs to consumers if insurance companies are not able to finance or otherwise handle redundant reserves at reasonable costs. Costs to finance redundant reserves have increased due to the current credit crisis. Additionally, the NAIC is encouraging state regulators to adopt the 2009 revisions to the NAIC Model Regulation 815 that are reflected in these proposed amendments as soon as possible to maintain consistent methods of reserving for all US insurers.

Analysis of Potential Costs for Persons Required to Comply with the Proposal. The Department does not anticipate any additional cost to persons as a result of the proposed amendments. The proposed amendments to §3.9403 and §3.9404 provide optional reserve standards that an insurance company may choose, but is not required, to utilize for establishing reserves for life insurance. As explained in the Introduction portion of this proposal, the proposed amendments to §3.9403 and §3.9404 allow life insurance companies the option to substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Mortality Table as the minimum valuation standard for contracts issued on or after May 1, 2003, and prior to January 1, 2007, subject to certain specified conditions. Insurance companies not electing to use the reserve standards provided by the proposed amendments will continue to comply with current requirements, and therefore not incur any new or additional compliance costs as a result of the proposed amendments.

Based upon information provided to the NAIC and the Department by industry actuaries and representatives, the Department anticipates primarily only a few large insurance companies will elect to utilize the optional reserve standards afforded by the proposed amendments. Those insurance companies that elect to utilize the reserve standards in the proposed amendments likely will incur optional costs that include (i) actuarial costs to develop the minimum reserve values using the new optional mortality standards; (ii) the data entry and computer programming costs to calculate the minimum reserve values using the new optional mortality standards; and (iii) the annual actuarial and reporting costs to support the adequacy of the reserves produced in using the new optional mortality standards.

Actuarial costs to develop the minimum reserve values using the new optional mortality standards. Insurance companies that elect to utilize the standards in proposed amendments for §3.9403 and §3.9404 will incur actuarial costs to determine the business which qualifies for the use of the preferred tables and to calculate the resulting reserves. Actuarial costs likely also may be incurred to determine whether the reinsurance accounting condition is met and, if not, to estimate the amount of the adjustment required permitting use of the preferred tables. The Department anticipates that an employee in the insurance company's in-house actuarial department or an employee of a consulting actuarial firm engaged by the insurance company would calculate the reserves using the optional reserves standards. Actual actuarial costs will depend primarily on the actuarial hourly rates and on the actual number of hours required to complete these tasks. The Department estimates that the hourly salary rates for actuarial work will vary significantly depending on whether in-house or consulting actuarial staff is used and could range from $35 (for in house actuarial students) to over $300 (for fully credentialed consulting actuaries). The number of actuarial hours required will vary significantly depending on the number and complexity of the policy forms involved, amount of reinsurance involved, the level of automation used by the life insurance company, and the amount of experience available for company analysis. Each insurance company has the information necessary to estimate its own actuarial costs required to incorporate the new optional mortality standards.

<et>Data entry and programming costs. Based upon discussions with industry actuaries, the Department anticipates that an insurance company will incur some optional data entry and computer programming costs to adjust the insurance company's computer system to calculate the minimum reserve values using the new optional mortality standards and to determine whether the reinsurance accounting condition is met and, if not, to estimate the amount of the adjustment required permitting use of the preferred tables. Based upon discussions with industry actuaries, the Department anticipates that a member of the company's actuarial or information technology department staff or a member of a consulting actuarial firm staff engaged by the company would perform these calculations at hourly salary rates ranging from $25 to $120 (for in-house staff) to over $200 (for consulting personnel). The actual costs for these hourly rates will vary significantly depending upon whether consulting personnel or company employees are used. The average number of hours to complete these data entry and programming changes will vary significantly depending on various factors, including the number of and complexity of the policy forms, and the level of automation used by the life insurance company. Each insurance company has the information necessary to estimate its own data entry and programming costs required to incorporate the new optional mortality standards.

Annual actuarial and reporting costs. Based upon discussions with industry actuaries, the Department anticipates that a member of an insurance company's in-house actuarial department staff or a member of a consulting actuarial firm staff engaged by the insurance company would annually prepare and file with the Department actuarial information to support the adequacy of the reserves produced in using the new optional mortality standards. Based upon discussions with industry actuaries, the Department estimates that the hourly salary rates for actuarial work will vary significantly depending on whether in-house or consulting actuarial staff is used and could range from $35 (for in-house actuarial students) to over $300 (for fully credentialed consulting actuaries). The average number of hours to prepare and file the actuarial information is dependent on several factors, including the adequacy of the reserves obtained using the new optional mortality table, the amount of life insurance business involved, and the systems available for actuarial analysis. Each insurance company has the information necessary to estimate its own annual actuarial and reporting costs required to incorporate the new optional mortality standards.

Additionally, based on discussions with several insurance companies, any costs incurred to implement the optional standards provided under the proposed amendments to §3.9403 and §3.9404 are estimated to be offset by savings in reducing redundant reserves.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), the Department has determined the proposed amendments will not have an adverse economic effect on small or micro business insurance companies that are required to comply with the proposal. As outlined in detail in the Public Benefit/Cost Note analysis part of this proposal, the proposed amendments do not impose any new requirements or costs with which businesses, including small and micro businesses as defined by the Government Code §2006.001(1) and (2), must comply that are not already required under existing rules and statutes. Instead, as explained in the Introduction portion of this proposal, the proposed amendments allow life insurance companies the option to substitute the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Mortality Table as the minimum valuation standard for contracts issued on or after May 1, 2003, and prior to January 1, 2007, subject to certain specified conditions. Under the proposal, small and micro businesses can elect, but are not required, to use the optional 2001 Preferred Class Structure Table 2001 CSO Mortality Table for contracts issued on or after May 1, 2003, and prior to January 1, 2007, subject to certain conditions. However, they are not required to do so either under the proposal or by the Insurance Code Chapter 425 Subchapter B (Standard Valuation Law). Therefore, in accordance with the Government Code §2006.002(c), the Department has determined that a regulatory flexibility analysis is not required because the proposal will not have an adverse impact on small or micro business insurance companies.

5. TAKINGS IMPACT ASSESSMENT. The Department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on May 31, 2010, to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be simultaneously submitted to Danny Saenz, Senior Associate Commissioner, Financial Program, Mail Code 305-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing should be submitted separately to the Office of the Chief Clerk before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. The amendments are proposed under the Insurance Code §§421.001(c), 425.054, 425.058(c)(3), and 36.001. Section 421.001(c) requires the Commissioner to adopt each current formula recommended by the National Association of Insurance Commissioners for establishing reserves for each line of insurance. Section 425.054(c) provides the Commissioner by rule shall specify the requirements of an actuarial opinion including any matters considered necessary to the opinion's scope. Section 425.058(c) provides that for an ordinary life insurance policy issued on the standard basis, excluding any disability or accidental death benefits in the policy and to which Subchapter B, Chapter 1105, applies, the applicable mortality table is the Commissioners 1980 Standard Ordinary Mortality Table; at the insurer's option for one or more specified life insurance plans, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by Commissioner rule for use in determining the minimum standard valuation for a policy to which this subdivision applies. Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

8. CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal:

Rule	Statute
§3.9403 and §3.9404	Insurance Code §§421.001(c), 425.054(c), and 425.058(c)(3)

9. TEXT.

§3.9403. 2001 CSO Preferred Class Structure Table.

(a) Policies Issued On or After January 1, 2007. At the election of the insurer, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this subchapter, 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.

(b) Policies Issued On or After May 1, 2003, and Prior to January 1, 2007. At the election of the insurer and with the consent of the commissioner, for policies issued on or after May 1, 2003, and prior to January 1, 2007, 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 subject to the conditions of §3.9404 of this subchapter (relating to Conditions). In determining the commissioner's consent, the commissioner may rely on the consent of the commissioner of the insurer's state of domicile.

(c) Requirement to Make Election. No [~~such~~] election in subsection (a) or (b) of this section shall be made until the insurer demonstrates that at least 20 percent of the business to be valued on this table is in one or more of the preferred classes.

(d) 2001 CSO Preferred Class Structure Mortality Table Treatment. 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 subchapter, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of §§3.9101 - 3.9106 of this chapter [~~title~~] (relating to 2001 CSO Mortality Table).

(e) [~~(b)~~] Adoption by Reference. The Commissioner of Insurance adopts by reference the 2001 CSO Preferred Class Structure Mortality Table. The table is available from the Actuarial Division, Texas Department of Insurance, Mail Code 302-3A, P.O. Box 149104, Austin, Texas 78714-9104 or on the internet by accessing the Department's website at www.tdi.state.tx.us/company/ficso.html.

§3.9404. Conditions.

(a) – (c) (No change.)

(d) The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007, shall not be 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:

(1) in cases where 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:

(A) provides coverage for the period from the next policy period premium due date to the earlier of the end of the policy year and the next reinsurance premium due date; and

(B) would be refunded to the ceding entity upon the termination of the policy.

(2) in cases where 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 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.

(3) for purposes of the conditions stated in paragraphs (1) and (2) of this subsection, the reserve:

(A) for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset; and

(B) for the mid-terminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table.