

SUBCHAPTER FF. Credit Life and Credit Accident and Health Insurance
Division 11. Policy and Claims Reserves
28 TAC §3.6101 and §3.6102

SUBCHAPTER GG. Minimum Reserve Standards for Individual and Group
Accident and Health Insurance
28 TAC §§3.7001, 3.7002, 3.7003, and 3.7006

1. INTRODUCTION. The Commissioner of Insurance adopts amendments to §§3.6101, 3.6102, 3.7001, 3.7002, 3.7003, and 3.7006, concerning the minimum reserve requirements for credit life and credit accident and health insurance. The amendments to §3.6101 are adopted with nonsubstantive changes to the proposed text published in the September 25, 2009 issue of the *Texas Register* (34 TexReg 6591). The amendments to §§3.6102, 3.7001, 3.7002, 3.7003, and 3.7006 are adopted without changes and will not be republished.

2. REASONED JUSTIFICATION. The amendments are necessary to implement House Bill (HB) 1761, 81st Legislature, Regular Session, effective June 19, 2009. HB 1761 amended the Insurance Code §425.058(l), relating to the minimum reserve requirements for credit life and credit accident and health insurance. In accordance with §425.058(l), the amendments (i) establish the minimum reserve requirements for credit life insurance policies and certificates issued on or after January 1, 2009, based, in part, on the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds; (ii) establish the minimum reserve requirements for single premium credit accident and health insurance policies and certificates issued on or after January 1,

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2009, based, in part, on the 1985 Commissioners Individual Disability Table A (85CIDA); and (iii) enumerate the additional reserve requirements for all credit insurance contracts in the aggregate if the contract reserve is less than the net premium refund liability. The amendments further (i) clarify the minimum reserve standards for credit life insurance policies and single premium credit accident and health insurance policies issued before January 1, 2009, and for all non-single premium credit accident and health policies; (ii) delete subsection (c) in §3.6102 because it is obsolete as the result of the adoption of more current actuarial opinion requirements in other Department rules; (iii) update statutory citations in existing rules to conform to the non-substantive revision of the Insurance Code; and (iv) correct citation style errors.

There was no request for a public hearing on the rule proposal. In response to comments on the published proposal, the Department has made two minor, nonsubstantive changes to the proposed language in the text of the rule as adopted. These two minor nonsubstantive changes, however, do not materially alter issues raised in the proposed rule, introduce new subject matter, or affect persons other than those previously subject to the proposal as originally published.

The following changes are made to the proposed text as the result of comments.

For purposes of accuracy, the Department has made a minor change to correct statutory citations in §3.6101(a)(3), as adopted. Subsection (a)(3) has been revised to replace the statutory reference to “425.080 – 425.083” with the correct statutory reference to “425.060 – 425.063.”

For purposes of accuracy and clarity, the Department has made a second non-substantive change to the proposed text to add the word “valuation” between the words “reserve” and “method” in new §3.6101(a)(4) as adopted. This nonsubstantive change is necessary to track the statutory language in the Insurance Code §425.064.

The following paragraphs provide a brief summary as well as an analysis of the reasons for the amendments.

Policy Reserves for Credit Life Insurance Contracts. The amendments to §3.6101(a) are necessary to clarify that the minimum policy reserve requirements in existing §3.6101(a) continue to apply to credit life insurance contracts issued prior to January 1, 2009. The amendments to §3.6101(a) are also necessary to clarify that Subchapter EE of Chapter 3 does not apply to credit life insurance. Additionally, the amendments to §3.6101(a) are necessary to implement §425.058(l)(4) of the Insurance Code, which prescribes the policy reserve requirements related to net refund liability for all credit insurance contracts. In accordance with §425.058(l)(4), the amendments to §3.6101(a) delete the outdated net refund liability requirements in existing §3.6101(a) and replace them with the new net refund liability requirements in new §3.6101(c). The amendments to §3.6101(a) add paragraphs (1) – (4) to implement the Insurance Code §425.058(l)(2). Pursuant to §425.058(l)(2), the Commissioner is statutorily required to adopt minimum reserve standards for use on credit life policy reserves that include mortality based on either (i) the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds, or (ii) another CSO Mortality Table approved by the National Association of Insurance Commissioners (NAIC) on or after January 1, 2009. Because

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the NAIC has only approved for use on credit life policy reserves the 2001 CSO Male Composite Ultimate Mortality Table and has not approved another CSO Mortality Table for use on or after January 1, 2009, the Commissioner is required under §425.058(l)(2) to adopt rules that include mortality based on the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds. Therefore, in accordance with §425.058(l)(2)(A) of the Insurance Code, new §3.6101(a)(1) establishes the 2001 CSO Male Composite Ultimate Mortality Table as the appropriate mortality table to use in determining the minimum standard valuation of reserves for credit life policies and certificates issued on or after January 1, 2009, for both male and female insureds. Also in accordance with §425.058(l)(2)(A), new §3.6101(a)(2) establishes that where the credit life insurance policy or certificate insures two lives, the minimum standard shall be twice the mortality in the 2001 CSO Male Composite Ultimate Mortality Table based on the age of the older insured. The 2001 CSO Male Composite Ultimate Mortality Table is one of the tables adopted by reference in existing §3.9103(d), and is available from the Actuarial Division, Financial Program, Texas Department of Insurance, 333 Guadalupe, Austin, Texas. New §3.6101(a)(3) and (4) are necessary to establish the appropriate interest rate and method to be used in determining the minimum standard valuation of reserves for credit life policies and certificates issued on or after January 1, 2009. The amendments to §3.6101(a)(1) - (4) are consistent with §425.058(l)(1), (2), and (5) of the Insurance Code and with Appendix A-818 of the March 2009 version of the NAIC's Accounting Practices and Procedures Manual, which is adopted by reference in §7.18 of Title 28 of the Texas Administrative Code. Further, the minimum reserve

requirements specified in the amendments to §3.6101(a)(1) - (4) are substantially similar to the current requirements adopted by the NAIC in its model regulation entitled Determining Reserve Liabilities for Credit Life Insurance Model Regulation.

Policy Reserves for Single Premium Accident and Health Insurance

Contracts. The amendments to §3.6101(b) are necessary to implement the Insurance Code §425.058(l)(3). Section 425.058(l)(3) requires the Commissioner to establish by rule the minimum reserve standards for use on credit accident and health policy reserves for single premium credit accident and health contracts issued on or after January 1, 2009, based, in part, on either the 1985 Commissioners Individual Disability Table A (85CIDA), or another Commissioner's Disability Table approved by the NAIC on or after January 1, 2009. The amendments to §3.6101(b) specify that the policy reserve requirements for single premium credit accident and health insurance contracts issued on or after January 1, 2009, are prescribed in §§3.7001, 3.7004, 3.7005, and 3.7006. The minimum reserve requirements specified in these amendments to §3.6101(b) are consistent with §425.058(l)(3) and (5) of the Insurance Code, and are substantially similar to the current minimum reserve requirements adopted by the NAIC in its model regulation entitled Health Insurance Reserves Model Regulation. The amendments to §3.6101(b) also clarify that the minimum reserve requirements for credit accident and health insurance contracts issued after December 31, 1980, and before January 1, 2009, continue to be those minimum reserve requirements in existing §3.6101(b). The amendments to §3.6101(b) also provide that for non-single premium credit accident and

health insurance contracts issued on or after January 1, 2009, the minimum reserve requirements are those specified in existing §3.6101(b).

Net Refund Liability for All Credit Insurance Contracts. An amendment to §3.6101 is necessary to add new subsection (c) to require an additional reserve for all credit contracts in the aggregate if the contract reserve is less than the net premium refund liability. The reserve requirements in new §3.6101(c) implement §425.058(l)(4) of the Insurance Code, which (i) requires an insurer to establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded for all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserve; and (ii) provides that the net refund liability may include consideration of commission, premium tax, and other expenses recoverable. New §3.6101(c) simply sets forth these statutory provisions and does not impose any new or additional requirements to those in the statute. Further, new §3.6101(c) replaces a similar requirement in existing §3.6101(a) that was applicable only to credit life insurance contracts in the aggregate.

Claims Reserves for All Credit Life Insurance Contracts and Credit Accident and Health Insurance Contracts. The amendments to §3.6102(a) are necessary to implement the Insurance Code §425.058(l)(3). The amendments to §3.6102(a) are necessary to require that the claims reserves for single premium credit accident and health insurance contracts issued on or after January 1, 2009, comply with the claim reserve requirements specified in §3.7002. The minimum reserve requirements specified in these amendments to §3.6102(a) are consistent with

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§425.058(l)(3) and (5) of the Insurance Code, and are substantially similar to the current minimum reserve requirements adopted by the NAIC in its model regulation entitled Health Insurance Reserves Model Regulation. Section §3.6102(a) is also amended to provide that claim reserves for all other credit accident and health insurance contracts and credit life insurance contracts must be based upon appropriate consideration for liability under each of the categories specified in existing §3.6102(a)(1) - (4).

Minimum Reserve Standards for Single Premium Credit Accident and Health Insurance Contracts Issued on or after January 1, 2009. The amendment to §3.7001(a)(1) is needed to clarify that the Subchapter GG standards apply to all individual and group accident and health insurance coverages, including single premium credit accident and health insurance contracts issued on or after January 1, 2009, but not to other types of credit insurance. This amendment implements the Insurance Code §425.058(l)(3). The minimum reserve requirements specified in the amendment to §3.7001(a)(1) are consistent with §425.058(l)(3) and (5) of the Insurance Code, and are substantially similar to the current minimum reserve requirements adopted by the NAIC in its model regulation entitled Health Insurance Reserves Model Regulation.

Claims Reserves for Credit Accident and Health Insurance Contracts. New §3.7002(a)(4) specifies that the claim reserves for single premium credit accident and health insurance contracts issued on or after January 1, 2009, must comply with the claim reserve requirements in §3.7002. The minimum reserve requirements specified in new §3.7002(a)(4) are consistent with §425.058(l)(3) and (5) of the Insurance Code and are substantially similar to the current minimum reserve requirements adopted by the

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NAIC in its model regulation entitled Health Insurance Reserves Model Regulation. New §3.7002(a)(4) also clarifies that the claim reserves for all other credit accident and health insurance contracts must comply with the claim reserve requirements in §3.6102 of this chapter (relating to Claim Reserves).

Premium Reserves for Single Premium Credit Accident and Health Insurance Contracts. New §3.7003(a)(2) is necessary to exclude single premium credit accident and health insurance, both individual and group contracts, from the Subchapter GG unearned premium reserve requirements. New §3.7003(a)(2) is necessary to implement the Insurance Code §425.058(l)(3), is consistent with §425.058(l)(3) and (5) of the Insurance Code, and is substantially similar to the current minimum reserve requirements adopted by the NAIC in its model regulation entitled Health Insurance Reserves Model Regulation. Existing §3.7003(a)(2) and (3) are re-designated as §3.7003(a)(3) and (4) without changes to the existing text.

Specific Minimum Standards with Respect to Morbidity and Mortality for Single Premium Credit Accident and Health Insurance Contracts. New §3.7006(a)(1)(E)(i)(I) and new §3.7006(a)(2)(B)(i)(I) adopt by reference the 1985 Commissioners Individual Disability Table (85CIDA) as the morbidity table to be used for determining the minimum standard of reserves for single premium credit accident and health insurance contracts, both individual and group, issued on or after January 1, 2009. These amendments also implement the Insurance Code §425.058(l)(3). New §3.7006(a)(1)(E)(i)(II) and new §3.7006(a)(2)(B)(i)(II) also are necessary to clarify that the minimum contract reserve requirements for single premium credit accident and

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health insurance contracts issued prior to January 1, 2009, are the requirements specified in §3.6101(b). New §3.7006(a)(1)(E)(ii) and new §3.7006(a)(2)(B)(ii) are necessary to require that the claim reserves for single premium credit disability policies issued on or after January 1, 2009, are to be determined in accordance with existing §3.7002(c). Existing §3.7006(a)(1)(E) and §3.7006(a)(2)(B) are re-designated as §3.7006(a)(1)(F) and §3.7006(a)(2)(C) without changes to the existing text. The amendments to §3.7006(c)(1) and (4) provide for single premium credit accident and health insurance using the 85CIDA table; no separate mortality shall be assumed. The minimum reserve requirements specified in the amendments to §3.7006(a)(1) and (2) and (c)(1) and (4) are consistent with §425.058(l)(3) and (5) of the Insurance Code, and are substantially similar to the current minimum reserve requirements adopted by the NAIC in its model regulation entitled Health Insurance Reserves Model Regulation.

Actuarial opinions and memorandum requirements. The deletion of §3.6102(c), concerning actuarial opinion requirements, is necessary because it is superseded by Chapter 3, Subchapter Q, concerning actuarial opinion and memorandum requirements for life insurance companies, and §7.65(e)(1)(E), concerning actuarial opinion requirements for property and casualty insurers.

Obsolete statutory citations. Amendments are also necessary to update obsolete statutory citations to the Insurance Code as a result of the enactment of the non-substantive revision of the Insurance Code. This will result in easier use and readability of the rules. Section 3.6101(a) is amended to replace the statutory reference to “Article 3.53” with “Chapter 1153.” Article 3.53 was repealed in the nonsubstantive

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Insurance Code revision, Acts 2001, 77th Legislature, Chapter 1419, §2, effective June 1, 2003. Article 3.53 was re-adopted as Chapter 1153 in the same nonsubstantive Insurance Code revision. Section 3.7003(b)(1) is amended to replace the statutory reference to "Article 6.01" with "§862.102." Article 6.01 was repealed in the nonsubstantive Insurance Code revision, Acts 2001, 77th Legislature, Chapter 1419, §2, effective June 1, 2003. Article 6.01 was re-adopted as §862.102 in the same nonsubstantive Insurance Code revision.

Other non-substantive amendments. The first sentence in §3.6101(a) is amended to replace the word "title" with "subchapter" to conform to current *Texas Register* citation style. Amendments are also necessary throughout the sections to change references to "%" to "percent" to conform to current Department style.

3. HOW THE SECTIONS WILL FUNCTION. The amendments to §3.6101(a) and §3.6102(a) clarify the existing minimum reserve requirements for credit life insurance contracts issued prior to January 1, 2009. The amendments to §3.6101(a) and §3.6102(a) also establish the minimum reserve requirements for use on credit life policy reserves for credit life contracts issued on or after January 1, 2009, based in part on the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds, or another CSO Mortality Table approved by the National Association of Insurance Commissioners (NAIC) on or after January 1, 2009.

The amendments to §3.6101(b) and §3.6102(a) clarify the existing minimum reserve requirements for credit accident and health insurance contracts issued prior to

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January 1, 2009, and for non-single premium credit accident and health insurance contracts issued on or after January 1, 2009. The amendments to §§3.6101(b), 3.6102(a), 3.7001, 3.7002, 3.7003, and 3.7006 establish the minimum reserve requirements for use on credit accident and health policy reserves for single premium credit accident and health insurance contracts issued on or after January 1, 2009, based in part on the 1985 Commissioners Individual Disability Table A (85CIDA), or another Commissioner's Disability Table approved by the NAIC on or after January 1, 2009.

New §3.6101(c) replaces the outdated net refund liability requirements for credit insurance with the new net refund liability requirements enumerated in HB 1761.

The amendments also delete subsection (c) in §3.6102 because it is obsolete as the result of the adoption of more current actuarial opinion requirements in other Department rules. Other non-substantive editorial amendments have been made to §3.6101(a) and §3.7003(b)(1) to update citations that have changed as a result of the non-substantive revision of the Insurance Code, and to correct citation style errors.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Comment: One commenter expresses support for the adoption of the proposal. The commenter states that it applauds the Department for its prompt and accurate promulgation of rules to incorporate the agreed-to standards in HB 1761.

Agency Response: The Department appreciates the supportive comment.

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Comment: Another commenter points out that the text in proposed new §3.6101(a)(3) cites to the Insurance Code §§425.080 – 425.083, which is not consistent with the sections in the Texas Insurance Code.

Agency Response: The Department agrees with the commenter that the citation to §§425.080 – 425.083 was an error, and has changed the text as adopted to reference the correct statutory citations of §§425.060 – 425.063.

Comment: A third commenter states that the text in proposed new §3.6101(a)(4) omits the word “valuation” between the words “reserve” and “method.” The commenter recommends that the Department add the omitted word for accuracy.

Agency Response: The Department agrees with the commenter and has made the recommended change.

5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTION.

For: Consumer Credit Industry Association and Hause Actuarial Solution, Inc.

Against: None.

Neither for or against: Life Protection Insurance Company.

6. STATUTORY AUTHORITY. The amendments are adopted under the Insurance Code §§421.001(c), 425.058(l), 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 425.058(l)(1) provides that notwithstanding any other law, the minimum reserve

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requirements applicable to a credit life policy issued under Chapter 1153 before January 1, 2009, are met if, in the aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest that does not exceed 5.5 percent. Section 425.058(l)(2) provides that for credit life policy reserves on contracts issued to be effective on or after January 1, 2009, the reserve requirements shall be based on the minimum reserve standards established by the Commissioner by rule. The Commissioner shall adopt the rules for use on credit life policy reserves based on either the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds; or another CSO Mortality Table approved by the National Association of Insurance Commissioners on or after January 1, 2009. Section 425.058(l)(3) provides that for a single premium credit accident and health contract issued on or after January 1, 2009, the reserve requirements shall be based on minimum reserve standards established by the Commissioner by rule. The Commissioner shall adopt the rules for use on credit accident and health policy reserves based on either the 1985 Commissioners Individual Disability Table A (85CIDA), or another Commissioner's Disability Table approved by the National Association of Insurance Commissioners on or after January 1, 2009. Section 425.058(l)(4) provides that for all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserve, the insurer shall establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded. Section 425.058(l)(4) further provides that the net refund liability may include consideration of commission, premium tax, and other expenses recoverable. Section 425.058(l)(5)

provides that in addition to the rules required to be adopted under this subsection, the Commissioner may adopt other rules to implement this subsection. 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.

7. TEXT.

SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH

INSURANCE

DIVISION 11. POLICY AND CLAIM RESERVES

§3.6101. Policy Reserves.

(a) Except as provided in §3.6102 of this subchapter (relating to Claims Reserves), the minimum reserves for premium refunds required by these rules and the payment of benefits under outstanding credit life insurance policies and certificates issued prior to January 1, 2009, may not be less in the aggregate than 130 percent of the reserves computed on the 1958 CSO Mortality Table with interest not to exceed 5.5 percent; or, at the option of the company, such reserves may be maintained at 100 percent of the reserves computed on the 1941 CSO Mortality Table or the 1958 CET Mortality Table with interest not to exceed 5.5 percent; or 150 percent of the 1980 CSO Mortality Table with interest not to exceed 5.5 percent; provided, however, notwithstanding any other law or rule, the minimum reserve requirements for policy reserves applicable to credit life policies and certificates issued prior to January 1, 2009,

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under the Insurance Code Chapter 1153 or these rules are met if, in aggregate, the reserves are maintained at 100 percent of the 1980 CSO Mortality Table, with interest not to exceed 5.5 percent. Subchapter EE of this chapter (relating to Valuation of Life Insurance Policies) shall not apply to credit life insurance. For credit life insurance policies and certificates issued on or after January 1, 2009, the minimum reserve requirements are as follows:

(1) The minimum standard for both male and female insureds shall be the 2001 CSO Male Composite Ultimate Mortality Table. This table contains rates of mortality that do not distinguish between smokers and nonsmokers and is one of the tables contained in the 2001 CSO Mortality Table adopted by reference in §3.9103(d) of this chapter (relating to 2001 CSO Mortality Table).

(2) Where the credit life insurance policy or certificate insures two lives, the minimum standard shall be twice the mortality in the 2001 CSO Male Composite Ultimate Mortality Table based on the age of the older insured.

(3) The interest rates used in determining the minimum standard of valuation shall be the calendar year valuation interest rates as defined in the Insurance Code §§425.060 - 425.063.

(4) The method used in determining the minimum standard for valuation shall be the commissioners reserve valuation method as defined in the Insurance Code §425.064.

(b) The policy reserve requirements for single premium credit accident and health insurance contracts issued on or after January 1, 2009, are prescribed in

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§§3.7001, 3.7004, 3.7005, and 3.7006 of this chapter (relating to Introduction; Contract Reserves; Reinsurance; and Specific Standards for Morbidity, Interest, and Mortality). The policy reserve requirements for credit accident and health insurance contracts issued after December 31, 1980, and before January 1, 2009, and for non-single premium credit accident and health insurance contracts issued on or after January 1, 2009, may not be less than the product rounded to the next higher dollar of the gross presumptive single premium rate per \$100 of insured indebtedness for the term of the indebtedness remaining as of the valuation date times the number of hundreds of dollars of indebtedness outstanding as of the valuation date (herein called the rule of anticipation) or, as an alternative and at the option of the insurer, the mean of the gross unearned premium calculated by the "sum of the digits" (rule of 78) and the pro rata methods. The reserve for such insurance which has an effective date prior to January 1, 1981, may not be less than the gross unearned premium calculated by the sum of the digits (rule of 78) method.

(c) Pursuant to the Insurance Code §425.058(l)(4), for all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserves, the insurer shall establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded. The net refund liability may include consideration of commission, premium tax, and other expenses recoverable.

§3.6102. Claims Reserves.

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(a) The insurer shall set up adequate reserves for claims on credit life and credit accident and health insurance, in addition to the policy reserves already described in §3.6101 of this subchapter (relating to Policy Reserves). Claim reserves for single premium credit accident and health insurance contracts issued on or after January 1, 2009, must comply with the claim reserve requirements in §3.7002 of this chapter (relating to Claim Reserves). Claim reserves for all other credit accident and health insurance contracts and credit life insurance contracts shall be based upon appropriate consideration for liability under each of the following categories:

(1) the liability on claims which are known to be due and already payable, but which have not yet been paid;

(2) the additional reserve on claims for ongoing and now continuing disability benefits which have already been reported, and on which future payment will be due during the continuance of this disability;

(3) the liability on claims which are incurred and benefits now due but not yet reported, but which will be payable when they are reported;

(4) the reserve on claims for disability benefits which are incurred but not yet reported, and on which future payments will be due during the continuance of this disability.

(b) The company may rely upon credible experience developed by its own claim experience, industry-wide experience, or any other available source which produces an adequate reserve for the liability described under subsection (a) of this section.

SUBCHAPTER GG. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP ACCIDENT AND HEALTH INSURANCE

§3.7001. Introduction.

(a) Scope and general standards.

(1) These standards apply to all individual and group accident and health insurance coverages, including single premium credit accident and health insurance contracts issued on or after January 1, 2009. All other credit insurance is not subject to these standards.

(2) When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified in these sections, such increased reserves must be held and must be considered the minimum reserves for that insurer.

(3) With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation would take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

(4) Such a gross premium valuation must be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of

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contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition must be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) must be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under these standards.

(5) Whenever minimum reserves, as defined in these standards, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

(b) Categories of reserves. The following sections set forth minimum standards for three categories of health insurance reserves: §3.7002 of this title (relating to Claim Reserves); §3.7003 of this title (relating to Premium Reserves); and §3.7004 of this title (relating to Contract Reserves). Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three categories combined. However, the standards in these sections emphasize the importance of determining appropriate reserves for each of the three categories separately.

(c) Sections 3.7006, 3.7007, 3.7008, and 3.7009. Section 3.7006 and §3.7007 of this title (relating to Specific Standards for Morbidity, Interest, and Mortality; and Glossary of Technical Terms Used) are an integral part of the standards specified in §§3.7001-3.7005 of this title (relating to Introduction; Claims Reserves; Premium Reserves; Contract Reserves and Reinsurance). Section 3.7008 of this title (relating to Reserves for Waiver of Premium) is supplementary and is not part of the standards as such, but is included for explanatory and illustrative purposes only. Section 3.7006 of

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this title contains specific minimum standards with respect to morbidity, interest, and mortality, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue. Section 3.7007 of this title consists of a glossary of technical terms used. Section 3.7008 of this title is supplementary and deals with waiver of premium reserves. For the purchase of existing business under certain circumstances, see §3.7009 of this title (relating to Purchase or Assumption of Existing Business).

§3.7002. Claim Reserves.

(a) General.

(1) Claim reserves are required for all incurred but unpaid claims on all health insurance policies.

(2) Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but unpaid claims.

(3) All such reserves for prior valuation years must be tested for adequacy and reasonableness along the lines of claim runoff schedules in accordance with the statutory financial statement including consideration of any residual unpaid liability.

(4) Claim reserves for single premium credit accident and health insurance contracts issued on or after January 1, 2009, must comply with the claim reserve requirements in this section. Claim reserves for all other credit accident and

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health insurance contracts must comply with the claim reserve requirements in §3.6102 of this chapter (relating to Claims Reserves).

(b) Minimum standards for claim reserves.

(1) Disability income.

(A) Interest. The maximum interest rate for claim reserves is specified in §3.7006 of this title (relating to Specific Standards for Morbidity, Interest, and Mortality).

(B) Morbidity. Minimum standards with respect to morbidity are those specified in §3.7006 of this title, except that, at the option of the insurer:

(i) for claims with a duration from date of disablement of less than two years, reserves may be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(ii) For group disability income claims with a duration from date of disablement of more than two years but less than five years, reserves may, with the approval of the commissioner, be based on the insurer's experience for which the insurer maintains underwriting and claim administration control. The request for such approval of a plan of modification to the reserve basis must include:

(I) an analysis of the credibility of the experience;

(II) a description of how all of the insurer's experience is proposed to be used in setting reserves;

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(III) a description and quantification of the margins to be included;

(IV) a summary of the financial impact that the proposed plan of modification would have had on the insurer's last filed annual statement;

(V) any other information deemed necessary by the commissioner.

(C) Duration of disablement. For contracts with an elimination period, the duration of disablement should be measured as dating from the time that benefits would have begun to accrue had there been no elimination period.

(D) Credibility. For experience to be considered credible for purposes of subparagraph (B)(ii) of this paragraph, the company should be able to provide claim termination patterns over no more than six years reflecting at least 5,000 claims terminations during the third through fifth claims durations on reasonably similar applicable policy forms. For claim reserves to reflect "sound values" and/or reasonable margins, reserve tables based on credible experience should be adjusted regularly to maintain reasonable margins. Demonstrations may be required by the commissioner based on published literature.

(2) All other benefits.

(A) Interest. The maximum interest rate for claim reserves is specified in §3.7006 of this title (relating to Specific Standards for Morbidity, Interest, and Mortality).

(B) Morbidity or other contingency. The reserve must be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(c) Claim reserve methods generally. Any generally accepted or reasonable actuarial method or combination of methods may be used to estimate all claim liabilities. The methods used for estimating liabilities generally may be aggregate methods, or various reserve items may be separately valued. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate.

§3.7003. Premium Reserves.

(a) General.

(1) Unearned premium reserves are required for all contracts with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

(2) Single premium credit accident and health insurance, both individual and group, is excluded from the unearned premium reserve requirements of this subchapter.

(3) If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of unpaid commissions, premium taxes, and the cost of

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collection associated with due and unpaid premiums must be carried as an offsetting liability.

(4) The gross premiums paid in advance for a period of coverage commencing after the next premium due date which follows the date of valuation may be appropriately discounted to the valuation date and shall be held either as a separate liability or as an addition to the unearned premium reserve which would otherwise be required as a minimum.

(b) Minimum standards for unearned premium reserves.

(1) The minimum unearned premium reserve with respect to any contract is an amount which is not in excess of the amount or inconsistent with the methods established by the Insurance Code §862.102. The minimum standard shall be the pro rata unearned modal premium that applies to the premium period beyond the valuation date, with such premium determined on the basis of:

(A) the valuation net modal premium on the contract reserve basis applying to the contract; or

(B) the gross modal premium for the contract if no contract reserve applies.

(2) However, in no event may the sum of the unearned premium and contract reserves for all contracts of the insurer subject to contract reserve requirements be less than the gross modal unearned premium reserve on all such contracts, as of the date of valuation. The reserve shall never be less than the expected claims for the

period beyond the valuation date represented by the unearned premium reserve to the extent not provided for elsewhere.

(c) Premium reserve methods generally. The insurer may employ suitable approximations and estimates, including, but not limited to, groupings, averages, and aggregate estimation, in computing premium reserves. Such approximations or estimates should be tested periodically to determine their continuing adequacy and reliability.

§3.7006. Specific Standards for Morbidity, Interest, and Mortality.

(a) Morbidity.

(1) Minimum morbidity standards for valuation of specified individual contract health insurance benefits are as follows.

(A) Disability income benefits due to accident or sickness.

(i) Contract reserves.

(I) Contracts issued on or after January 1, 1965, and prior to January 1, 1987: the 1964 Commissioners Disability Table (64 CDT). The 1964 Commissioners Disability Table (64 CDT) is adopted by reference for use in the manner indicated in these sections.

(II) Contracts issued on or after January 1, 1994: the 1985 Commissioners Individual Disability Tables A (85CIDA); or the 1985 Commissioners Individual Disability Tables B (85CIDB). The 1985 Commissioners Individual Disability Tables A (85CIDA) and the 1985 Commissioners Individual

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Disability Tables B (85CIDB) are adopted by reference for use in the manner indicated in these sections.

(III) Contracts issued during the years 1987 through 1993: optional use of either the 1964 table or the 1985 tables.

(IV) Each insurer shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A (85CIDA) or Tables B (85CIDB) as the minimum standard. The insurer may, however, elect to use the other tables with respect to any subsequent statement year.

(ii) Claim reserves.

(I) For claims incurred after December 31, 2002, the 1985 Commissioners Individual Disability Tables A (85CIDA) with claim termination rates multiplied by the following adjustment factors:

Figure: 28 TAC §3.7006(a)(1)(A)(ii)(I):

<u>Duration</u>	<u>Adjustment Factor</u>	<u>Adjusted Termination Rates*</u>
Week 1	0.366	0.04831
2	0.366	0.04172
3	0.366	0.04063
4	0.366	0.04355

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5	0.365	0.04088
6	0.365	0.04271
7	0.365	0.04380
8	0.365	0.04344
9	0.370	0.04292
10	0.370	0.04107
11	0.370	0.03848
12	0.370	0.03478
13	0.370	0.03034
Month 4	0.391	0.08758
5	0.371	0.07346
6	0.435	0.07531
7	0.500	0.07245
8	0.564	0.06655
9	0.613	0.05520
10	0.663	0.04705

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11	0.712	0.04486
12	0.756	0.04309
13	0.800	0.04080
14	0.844	0.03882
15	0.888	0.03730
16	0.932	0.03448
17	0.976	0.03026
18	1.020	0.02856
19	1.049	0.02518
20	1.078	0.02264
21	1.107	0.02104
22	1.136	0.01932
23	1.165	0.01865
24	1.195	0.01792
Year 3	1.369	0.16839
4	1.204	0.10114

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5	1.199	0.07434
6 and later	1.000	**

*The adjusted termination rates derived from the application of the adjustment factors to the DTS Valuation Table termination rates shown in exhibits 3a, 3b, 3c, 4, and 5 (*Transactions of the Society of Actuaries* (TSA) XXXVII, pp. 457-463) is displayed. The adjustment factors for age, elimination period, class, sex, and cause displayed in exhibits 3a, 3b, 3c, and 4 should be applied to the adjusted termination rates shown in this table.

**Applicable DTS Valuation Table duration rate from exhibits 3c and 4 (TSA XXXVII, pp. 462-463).

The 85CIDA table so adjusted for the computation of claim reserves shall be known as 85 CIDC (The Commissioners Individual Disability Table C).

(II) For claims incurred on or before December 31, 2002, each insurer may elect to use item (-a-) or (-b-) of this subclause as the minimum standard for claims incurred on or before December 31, 2002.

(-a-) The minimum morbidity standard in effect for the contract reserves on currently issued contracts, as of the date the claim is incurred, or

(-b-) The standard as defined in clause (i) of this subparagraph, applied to all open claims. Once an insurer elects to calculate reserves for all open claims on the standard defined in clause (i) of this subparagraph, all future valuations must be on that basis.

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(B) Hospital benefits, surgical benefits, and maternity benefits (scheduled benefits or fixed time period benefits only).

(i) Contract reserves.

(I) Contracts issued on or after January 1, 1955, and before January 1, 1982: the 1956 Intercompany Hospital-Surgical Tables. The 1956 Intercompany Hospital-Surgical Tables are adopted by reference for use as indicated in these sections.

(II) Contracts issued on or after January 1, 1982: the 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Volume XXX, page 63. Refer to the paper (in the same volume, page 9) to which this table is appended, including its discussions, for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits," Houghton and Wolf. The 1974 Medical Expense Tables, Table A is adopted by reference for use in the manner indicated in these sections.

(ii) Claim reserves. No specific standard. See subparagraph (E) of this paragraph.

(C) Cancer expense benefits (scheduled benefits or fixed time period benefits only).

(i) Contract reserves. Contracts issued on or after January 1, 1986: the 1985 NAIC Cancer Claim Cost Tables. The 1985 NAIC Cancer Claim Cost Tables are adopted by reference for use in the manner specified in these sections.

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(ii) Claim reserves. No specific standard. See subparagraph (E) of this paragraph.

(D) Accidental death benefits.

(i) Contract reserves. Contracts issued on or after January 1, 1965: the 1959 Accidental Death Benefits Table. The 1959 Accidental Death Benefits Table is adopted by reference for use in the manner specified in these sections.

(ii) Claim reserves. Actual amount incurred.

(E) Single premium credit accident and health.

(i) Contract reserves.

(I) For contracts issued on or after January 1, 2009:

(-a-) for plans having less than a 30-day elimination period, the 1985 Commissioners Individual Disability Table A (85CIDA) with claim incidence rates increased by 12 percent.

(-b-) for plans having a 30-day and greater elimination period, the 85CIDA for a 14-day elimination period with the adjustment specified in item (-a-) of this subclause.

(II) For contracts issued prior to January 1, 2009, the minimum contract reserve requirements are specified in §3.6101(b) of this chapter (relating to Policy Reserves).

(ii) Claim reserves. Claim reserves are to be determined in accordance with §3.7002(c) of this subchapter (relating to Claim Reserves).

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(F) Other individual contract benefits.

(i) Contract reserves. For all other individual contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.

(ii) Claim reserves. For all benefits other than disability, claim reserves are to be determined as provided in the standards.

(2) Minimum morbidity standards for valuation of specified group contract health insurance benefits are as follows.

(A) Disability income benefits due to accident or sickness.

(i) Contract reserves. Contracts issued prior to January 1, 1994: the same basis, if any, as that employed by the insurer as of January 1, 1994. Contracts issued on or after January 1, 1994: the 1987 Commissioners Group Disability Income Table (87CGDT). The 1987 Commissioners Group Disability Income Table (87CGDT) is adopted herein by reference.

(ii) Claim reserves. For claims incurred on or after January 1, 1994: the 1987 Commissioners Group Disability Income Table (87CGDT); for claims incurred prior to January 1, 1994: use of the 87CGDT is optional.

(B) Single premium credit accident and health.

(i) Contract reserves.

(l) For contracts issued on or after January 1, 2009:

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(-a-) for plans having less than a 30-day elimination period, the 1985 Commissioners Individual Disability Table A (85CIDA) with claim incidence rates increased by 12 percent.

(-b-) for plans having a 30-day and greater elimination period, the 85CIDA for a 14-day elimination period with the adjustment specified in item (-a-) of this subclause.

(II) For contracts issued prior to January 1, 2009, the minimum contract reserve requirements are specified in §3.6101(b) of this chapter.

(ii) Claim reserves. Claim reserves are to be determined in accordance with §3.7002(c) of this subchapter.

(C) Other group contract benefits.

(i) Contract reserves. For all other group contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.

(ii) Claim reserves. For all benefits other than disability, claim reserves are to be determined as provided in the standards.

(b) Interest.

(1) For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the health insurance contract.

(2) For claim reserves on policies that require contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date. For claim reserves on

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policies not requiring contract reserves, the maximum interest rate is the maximum rate permitted by law in the valuation of single premium immediate annuities issued on the same date as the claim incurral date, reduced by one percentage point.

(c) Mortality.

(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, the mortality basis used must be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the health insurance contract.

(2) Other mortality rates may be used in the calculation of the minimum reserves, if appropriate for the type of benefits and if approved by the commissioner. The request for such approval must include the proposed mortality basis and the reason that the standard specified in paragraph (1) of this subsection is inappropriate.

(3) For long-term care insurance individual policies or group certificates the mortality basis used shall be the 1983 Group Annuity Mortality Table without projection.

(4) For single premium credit accident and health insurance using the 85CIDA table, no separate mortality shall be assumed.

CERTIFICATION. This agency hereby certifies that the adopted amendments have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on January 5, 2009.

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IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments to §§3.6101, 3.6102, 3.7001, 3.7002, 3.7003, and 3.7006 specified herein, concerning the minimum reserve requirements for credit life and credit accident and health insurance, are adopted.