

SUBCHAPTER P. ANNUITY MORTALITY TABLES
28 TAC §§3.1501 - 3.1506

1. INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC §3.1501 through §3.1505 and a new §3.1506, concerning mortality tables for annuity reserve liabilities. The amendments and new section are adopted with changes to the proposed text published in the August 16, 2013, issue of the *Texas Register* (38 TexReg 5220).

In accord with Government Code §2001.033(a)(1), the department's reasoned justification for the rule amendments and new rule is set out in this order, which includes the preamble and rules. The preamble contains a summary of the factual basis of the rules, a summary of comments received from interested parties, names of the groups and associations that commented and whether they support or oppose adopting the rules, the reasons why the department agrees or disagrees with some of the comments and recommendations, and all other department responses to the comments. The text also includes nonsubstantive changes to conform the language to the current agency style.

2. REASONED JUSTIFICATION. The amendments and new section are necessary to implement the 2012 Individual Annuity Reserve Table (2012 IAR) for use in valuing minimum reserves for individual annuities or pure endowment contracts issued after a specified date in the future.

The department proposed the amendments and new section under Insurance Code §425.059(d)(2), which authorizes the commissioner to approve by regulation any

individual annuity mortality table adopted by the National Association of Insurance Commissioners (NAIC) after 1980. The joint American Academy of Actuaries/Society of Actuaries Payout Annuity Table Team developed the 2012 IAR mortality table, and the NAIC adopted it in Model Regulation 821. The department modeled the proposed amendments to §3.1501 through §3.1505 and new §3.1506 after the NAIC's currently-adopted Model Regulation 821.

Because people who purchase annuities are living longer, resulting in an improvement in mortality, it is necessary to update the mortality table so that insurers will maintain reasonably conservative reserves. This annuity mortality table is a "generational" table containing factors that adjust the mortality rates annually based on expected mortality improvements.

The agency adopts the amendments and new section with changes from the amendments and new section formally proposed on August 16, 2013. The department amends the implementation date of the amendments and the new section to make the 2012 IAR applicable to individual annuities or pure endowment contracts issued on or after January 1, 2015. This change is necessary because a delayed date will assist affected parties with the complex implementation of the proposed rule amendments and will enhance the opportunity for a critical mass of states to adopt similar rule changes so that affected reserves can be tax qualified. The department clarified the variables in the calculation of the 2012 IAR mortality rates and provided several examples of such calculations.

These changes do not materially alter issues raised in the proposal, introduce new subject matter, or affect persons other than those previously on notice.

3. HOW THE SECTIONS WILL FUNCTION. The adopted amendments to §3.1501 through §3.1505 and new §3.1506 are modeled after the NAIC's currently-adopted Model Regulation 821 and provide guidelines for adequate annuity reserves based on updated mortality tables reflecting improved life expectancy. The department also adopts several nonsubstantive amendments to §7.402 to conform with the department's writing style guides.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

§3.1501 through §3.1506

COMMENT: All commenters asked that the effective date of proposed rule amendments and new rule be delayed from the originally proposed date of January 1, 2014. The commenters generally stated that because federal tax law will not recognize the new mortality tables until at least 26 states adopt the model rules and tables, companies subject to the mortality tables only in Texas would be at a competitive disadvantage relative to insurers in other states. The insurers subject to the mortality tables only in Texas would not only be required to maintain a higher statutory reserve without a corresponding reflection of the mortality component in the tax reserve, but would also be incurring additional expenses in applying one mortality table for tax and a different one for statutory valuation. Companies subject to these amendments before at

least 25 other states have adopted them would not get the tax benefits that would otherwise accompany the reserve requirements, and they would be at a competitive disadvantage in terms of pricing. One commenter also pointed out that those companies subject to the new mortality tables only in Texas will likely bear the cost of retaining outside vendors to develop the software required to implement the new tables, while competitors will reap the benefit of those expenditures when other states adopt similar rule amendments in the near future.

AGENCY RESPONSE: The department agrees that delaying the implementation date one year (delaying it to January 1, 2015) is reasonable to address the commenters' concerns, while still achieving the desired result from the amendments and new rule.

§3.1506

COMMENT: One commenter stated that the variables in the IAR formula, which is

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$$

are not clearly defined. The commenter proposed indicating the q_x comes from the 2012 IAM Period Table and that $G2_x$ comes from the Projection Scale G2 Table.

AGENCY RESPONSE: The department agrees, and the proposal provides such clarification in Figure: 28 TAC §3.1506.

COMMENT: One commenter pointed out that this section is susceptible to multiple interpretations about how to determine n . Because of those potential multiple interpretations by regulators and the industry, the commenter fears an unlevel "playing

field” for issuers.

AGENCY RESPONSE: The department understands that the clarification requested relates to the calculation of the IAR mortality rate in projection years beyond the valuation date. The department provided this clarification by adding language and examples in Figure: 28 TAC §3.1506.

COMMENT: One commenter requests a change to the example given in the definition of rounding, so that the rates are for $1000q_x$ rather than for q_x .

AGENCY RESPONSE: The department agrees and made this change.

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

For:	None
For, with changes:	Life Insurance Company of the Southwest American Council of Life Insurers Texas Association of Life and Health Insurers American National Life Insurance Company
Against:	None
Neither For or Against:	None

6. STATUTORY AUTHORITY. The amendments and new section are adopted under Insurance Code §§36.001 and 425.059(d)(2). Insurance Code §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. Section 425.059(d)(2) authorizes the commissioner to approve by regulation any individual annuity mortality table adopted by NAIC after 1980. The joint American Academy of Actuaries/Society of Actuaries Payout Annuity Table Team developed the 2012 IAR mortality table, and the NAIC adopted it in Model Regulation 821. The department modeled the proposed amendments to §3.1501 through §3.1505 and new §3.1506 after the NAIC's currently-adopted Model Regulation 821.

7. TEXT. §3.1501. Purpose. The purpose of this subchapter is to approve and adopt the following mortality tables and establish the effective dates of their use in determining the minimum standard of valuation for annuity and pure endowment contracts:

(1) the 1983 Table "a";

Figure: 28 TAC §3.1501(1)

(2) the 1983 GAM Table;

Figure: 28 TAC §3.1501(2)

(3) the Annuity 2000 Mortality Table;

Figure: 28 TAC §3.1501(3)

(4) the 1994 GAR Table;

Figure: 28 TAC §3.1501(4)

and

(5) the 2012 Individual Annuity Reserving (2012 IAR) Table which, under §3.1506 of this title (relating to Application of the 2012 IAR Mortality Table), is derived from the following tables:

(A) the 2012 Individual Annuity Mortality Period Life (2012 IAM Period)

Table; and

Figure: 28 TAC §3.1501(5)(A)

(B) the Projection Scale G2 (Scale G2) table of annual rates.

Figure: 28 TAC §3.1501(5)(B)

§3.1502. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) 1983 GAM Table--Mortality table developed by the Society of Actuaries' Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983, by the National Association of Insurance Commissioners.

(2) 1983 Table "a"--Mortality table developed by the Society of Actuaries' Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982, by the National Association of Insurance Commissioners.

(3) 1994 GAR Table--The 1994 Group Annuity Reserving Table developed by the Society of Actuaries' Group Annuity Valuation Table Task Force and adopted as a recognized mortality table for annuities on December 16, 1996, by the National Association of Insurance Commissioners.

(4) Annuity 2000 Mortality Table--Mortality table developed by the Society of Actuaries' Committee on Life Insurance Research and adopted as a recognized

mortality table for annuities on December 16, 1996, by the National Association of Insurance Commissioners.

(5) Period Table--Table of mortality rates applicable to a given calendar year.

(6) Generational Mortality Table--Mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period Table and a projection scale containing rates of mortality improvement.

(7) 2012 IAR Table--Generational mortality table developed by the Society of Actuaries' Committee on Life Insurance Research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in §3.1506 of this title (relating to Application of the 2012 IAR Mortality Table).

(8) 2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table--The Period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012} , developed by the Society of Actuaries' Committee on Life Insurance Research.

(9) Projection Scale G2 (Scale G2)--Table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. The Society of Actuaries' Committee on Life Insurance Research developed this table.

§3.1503. Individual Annuity or Pure Endowment Contracts.

(a) Except as provided in subsections (b) and (c) of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used to determine the minimum standard of

valuation for any individual annuity or pure endowment contract issued on or after August 29, 1977.

(b) Except as provided in subsection (c) of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table must be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract delivered or issued for delivery on or after January 1, 1987.

(c) Except as provided in subsection (e) of this section, the Annuity 2000 Mortality Table must be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2000.

(d) The 1983 Table "a" without projection must be used to determine the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2000, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

(1) settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

(2) settlements involving similar actions such as workers' compensation claims; or

(3) settlements of long term disability claims where a temporary or life annuity has been used instead of continuing disability payments.

(e) Except as provided in subsection (d) of this section, the 2012 IAR Mortality Table must be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

§3.1504. Group Annuity or Pure Endowment Contracts.

(a) Except as provided in subsections (b) and (c) of this section, the 1983 GAM Table, the 1983 Table "a", and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after August 29, 1977, under a group annuity or pure endowment contract.

(b) Except as provided in subsection (c) of this section, either the 1983 GAM Table or the 1994 GAR Table must be used to determine the minimum standard of valuation for any annuity of pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract.

(c) The 1994 GAR Table must be used to determine the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2000, under a group annuity or pure endowment contract.

§3.1505. Application of the 1994 GAR Table.

In using the 1994 GAR Table, the mortality rate for a person age x in year $(1994 + n)$ is calculated as follows:

Figure: 28 TAC §3.1505

§3.1506. Application of the 2012 IAR Mortality Table.

In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year $(2012 + n)$ is calculated as follows:

2994

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 3. Life, Accident, and Health Insurance and Annuities

Adopted Sections
Page 11 of 11

Figure: 28 TAC §3.1506

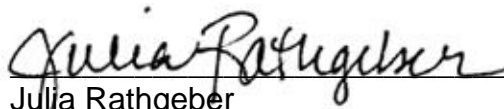
10. CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on February 7, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance

The commissioner adopts 28 TAC §3.1501 through §3.1505 and a new §3.1506.



Julia Rathgeber
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **2994**