

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 73]

Credit Life Insurance and Credit Accident and Health Insurance

The Insurance Department (Department), 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 sections 301.1 and 311.1 of The Insurance Department Act (40 P. S. §§ 71.1 and 93), proposes to amend Chapter 73 (relating to credit life insurance and credit accident and health insurance) to read as set forth in Annex A.

Purpose

The purpose of the proposed rulemaking is to: (1) modify the mortality standards in calculating minimum reserves for credit life insurance; and (2) delete the standards for calculating minimum reserves for single premium credit accident and health insurance because these standards are addressed in amendments to Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts), which are being promulgated in conjunction with this proposed rulemaking.

The proposed rulemaking is patterned after the Determining Reserve Liabilities For Credit Life Insurance Model Regulation (model regulation) adopted by the National Association of Insurance Commissioners in June 2004. A copy of the copyrighted model regulation was provided to the Legislative Standing Committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy, the Governor's Office of General Counsel and the Attorney General to help in their analysis of this proposed rulemaking.

Explanation of Regulatory Requirements

The following is a description of the amendments in this proposed rulemaking.

The definition of "2001 CSO Male Composite Ultimate Mortality Table" is proposed to be added to § 73.103 (relating to definitions).

Section 73.138 (relating to financial statement reserves) establishes the standards used in calculating minimum reserves for credit life insurance and credit accident and health insurance. The proposed rulemaking establishes the 2001 CSO Male Composite Ultimate Mortality Table as the mortality standard in calculating the minimum reserves for credit life insurance issued after the effective date of this proposed rulemaking. In addition, the proposed rulemaking clarifies that Chapter 84c (relating to valuation of life insurance policies) does not apply to credit life insurance. The proposed rulemaking also deletes the standards used in calculating minimum reserves for single premium credit accident and health insurance because those standards are being simultaneously proposed for modification and inclusion as amendments to Chapter 84a.

Affected Parties

The proposed rulemaking will apply to life insurance companies, property and casualty insurance companies and fraternal benefit societies marketing and soliciting

the sale of credit life insurance and credit accident and health insurance in this Commonwealth.

Fiscal Impact

State government

There will be no increase in cost to the Department as a result of this proposed rulemaking. As part of its solvency monitoring responsibilities, the Department currently reviews the methodology used by an insurer to calculate credit life insurance reserves to ensure that the reserves are adequate and comply with the minimum standard requirements. Thus, this proposed rulemaking will not require any 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 in the ability of insurers to fulfill their contractual obligations under credit life insurance and credit accident and health 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 does not apply to policies issued prior to adoption of the final-form rulemaking. Some expense may be incurred by an insurer in modifying the reserve calculation system to comply with amended minimum reserve standards.

Paperwork

The adoption of this proposed rulemaking does not impose additional paperwork on the Department or the insurance industry. The amendment to the minimum standards applies to the reserve calculation, but will not result in additional paperwork.

Effectiveness/Sunset Date

The proposed rulemaking will become effective January 1, 2007. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.14), the Department is required to write to commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department has made a determination that

all commentators will receive a copy of the final-form rulemaking when it is made available to IRRC and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 13, 2006, 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 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.

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For a document relating to this proposed rulemaking, see 36 Pa.B. 392 (January 28, 2006).)

Fiscal Note: 11-227. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART III. CREDIT INSURANCE

CHAPTER 73. CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

§ 73.103. Definitions.

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

* * * * *

2001 CSO Male Composite Ultimate Mortality Table—The ultimate version of the mortality table, consisting of separate rates of mortality for male lives that do not distinguish between smokers and nonsmokers, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners in December 2002. The table includes both the age-nearest birthday and age-last birthday version.

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§ 73.138. Financial statement reserves.

The following reserves for all credit insurance policies shall be maintained by insurers doing credit life insurance or credit A and H insurance business in this Commonwealth[.]:

(1) The reserves for credit life insurance may not be less than the reserves as computed using the Commissioners 1980 Extended Term Mortality Table, using mortality rates applicable to male lives for insurance issued prior to [**or on or after June 19, 1998**] **January 1,**

2007, with interest at the rate specified in section 301(c) of The Insurance Department Act of 1921 (40 P. S. § [**1**] **71(c)**).

(2) **The reserves for credit life insurance may not be less than the reserves as computed using the 2001 CSO Male Composite Ultimate Mortality Table for insurance issued on or after January 1, 2007 with interest at the rate specified in section 301(c) of The Insurance Department Act of 1921.**

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

(4) **Chapter 84c (relating to valuation of life insurance policies) does not apply to credit life insurance.**

(5) The reserves for single premium credit [**A and H insurance or**] TPD benefits may not be less than the mean of the amounts of unearned premium calculated from gross premiums in force on the following bases:

* * * * *

(6) **The reserves for single premium credit A and H insurance are regulated under Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts).**

[(3)] (7) * * *

[(4)] (8) * * *

[Pa.B. Doc. No. 06-141. Filed for public inspection January 27, 2006, 9:00 a.m.]

[31 PA. CODE CH. 84a]

Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts

The Insurance Department (Department), 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 sections 301.1 and 311.1 of The Insurance Department Act (40 P. S. §§ 71.1 and 93), proposes to amend Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts) to read as set forth in Annex A.

Purpose

The purpose of the proposed rulemaking is to: (1) modify the morbidity standards in calculating minimum claim reserves for individual disability income benefits; (2) establish reserve standards for single premium credit health and accident insurance; and (3) modify the standards for calculating minimum contract reserves for long-term care insurance.

The proposed rulemaking is patterned after amendments to the Health Insurance Reserves Model Regulation (model regulation) adopted by the National Association of Insurance Commissioners (NAIC) in June 2001, December 2003 and March 2004. Copies of the copyrighted model regulations were provided to the Legislative Standing Committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of

Policy, the Governor's Office of General Counsel and the Attorney General to aid in their analysis of this proposed rulemaking.

Explanation of Regulatory Requirements

The following is a description of the amendments in this proposed rulemaking.

Section 84a.2 (relating to applicability and scope) is modified to include single premium credit health and accident insurance while differentiating that monthly premium credit health and accident insurance is not subject to this regulation. Rather, monthly premium credit health and accident insurance is regulated under Chapter 73 (relating to credit life insurance and credit accident and health insurance). Amendments to Chapter 73 are being submitted simultaneously with this final-form rulemaking for review.

The definition of "group long-term care insurance" is added in § 84a.3 (relating to definitions).

Section 84a.4 (relating to claim reserves) is amended to describe the minimum standards and methods used in calculating claim reserves. An insurer may use the insurer's experience as the minimum morbidity standard in calculating claim reserves of disability income benefits for claims with a duration from date of disablement of less than 2 years for individual insurance or less than 5 years for group insurance. The proposed rulemaking clarifies that the standard based on the insurer's experience applies to the determination of the claim termination rates during the initial 2- or 5-year periods beginning from the date of disablement.

Section 84a.5 (relating to premium reserves) will now exempt single premium credit health and accident insurance from the regulation.

Section 84a.6. (relating to contract reserves) is amended to augment the minimum standards and methods used in calculating contract reserves. This proposed rulemaking adds a requirement that the contract reserve shall incorporate a provision for moderately adverse deviations. The proposed rulemaking also adds a requirement that a morbidity improvement assumption shall not be used in calculating contract reserves for contracts issued on or after January 1, 2007, as well as modifies the termination rate standards used in calculating contract reserves for long-term care insurance contracts issued on or after January 1, 2007.

Appendix A (relating to specific standards for morbidity, interest and mortality) will be amended to modify the morbidity standard in calculating minimum claim reserves for individual disability income benefits by adding adjustment factors that are multiplied by the termination rates in the 1985 Commissioners Individual Disability Tables A in calculating minimum claim reserves for individual disability income benefits. The adjusted termination rates will then apply to claims incurred on or after the effective date of the final-form rulemaking or, at the option of the insurer, to all claims.

Appendix A is also being amended to add the minimum standards in the calculation of contract and claim reserves for single premium credit health and accident insurance, and to amend the mortality standard in the calculation of contract reserves for long-term care insurance contracts issued on or after January 1, 2007.

Affected Parties

The proposed rulemaking will apply to life insurance companies, property and casualty insurance companies and fraternal benefit societies marketing health and accident insurance contracts.

Fiscal Impact

State government

There will be no 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 the methodology used by an insurer to calculate health and accident reserves to ensure that the reserves are adequate and comply with the minimum standard requirements. The 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 insurance companies, the public will benefit from a financially sound insurance industry and the ability of insurers to fulfill their contractual obligations under accident and health contracts.

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 should benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment, and would increase incentives for insurers to market new insurance products in this Commonwealth.

Private sector

The proposed rulemaking does not apply to claims incurred prior to the adoption of the proposed rulemaking unless elected on an optional basis by the insurance company. There may be some expense incurred by an insurance company in modifying the claim reserve calculation system to comply with amended minimum claim reserve standards.

Paperwork

This proposed rulemaking does not impose additional paperwork on the Department or the insurance industry. The proposed amendment to the reserve minimum standards applies to the claim reserve calculation, but will not result in additional paperwork.

Effectiveness/Sunset Date

The proposed rulemaking will become effective January 1, 2007. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.14), the Department is required to write to commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to IRRC and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 13, 2006, 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 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.

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For a document relating to this proposed rulemaking, see 36 Pa.B. 391 (January 28, 2006).)

Fiscal Note: 11-228. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 84a. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP HEALTH AND ACCIDENT INSURANCE CONTRACTS

§ 84a.2. Applicability and scope.

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(b) The minimum reserve standards of this chapter apply to individual and group health and accident insurance coverages, [except credit insurance] including single premium credit health and accident insurance, written by life insurance companies and casualty insurance companies. Monthly premium credit health and accident insurance is not subject to this chapter, but instead is subject to the reserve standards in Chapter 73 (relating to credit life and credit accident and health insurance).

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§ 84a.3. Definitions.

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

* * * * *

Group long-term care insurance—A long-term care insurance policy that is delivered or issued for delivery in this Commonwealth and issued to one or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations.

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§ 84a.4. Claim reserves.

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(b) Minimum standards for claim reserves of disability income benefits, **excluding single premium credit health and accident insurance.**

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(2) Minimum standards with respect to morbidity are those specified in Appendix A; except that, at the option of the insurer:

(i) For claims [with a duration] incurred on or after January 1, 2007, assumptions regarding claim termination rates for the period less than 2 years from the date of disablement [of less than 2 years, reserves] may be based on the insurer's experience, if the 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] incurred on or after January 1, 2007, assumptions regarding claim termination rates for the period of 2 or more years but less than 5 years from the date of disablement [of more than 2 years but less than 5 years, reserves] may, with the approval of the Commissioner, be based upon the insurer's experience for which the insurer maintains underwriting and claim administration control if the experience is considered credible. For an insurer's experience to be considered credible, the insurer shall be able to provide claim termination patterns over no more than 6 years reflecting at least 5,000 claim terminations during the third through fifth claim durations on reasonably similar applicable policy forms. Reserve tables based on credible experience shall be adjusted regularly to maintain reasonable margins. Demonstrations may be required by the Commissioner based on published literature. The request for approval of a plan of modification to the reserve basis [shall] must include the following:

* * * * *

(iii) For claims incurred prior to January 1, 2007, each insurer may elect one of the following as the minimum standard.

(A) For claims with a duration from the date of disablement of less than 2 years, reserves may be based on the insurer's experience, if the experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities. For group disability income claims with a duration from the date of disablement of more than 2 years but less than 5 years, reserves may, with the approval of the Commissioner, be based upon the insurer's experience for which the insurer maintains underwriting and claim administration control if the experience is considered credible. For an insurer's experience to be considered credible, the insurer shall be able to provide claim termination patterns over no more than 6 years reflecting at least 5,000 claim terminations during the third through fifth claim durations on reasonably similar applicable policy forms. Reserve tables based on credible experience shall be adjusted regularly to maintain reasonable margins. Demonstrations may be required by the Commissioner based on published literature. The request for approval of a plan of modification to the reserve basis must include the following:

(I) An analysis of the credibility of the experience.

(II) A description of how the insurer's experience is proposed to be used in setting reserves.

(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) A copy of the approval of the proposed plan of modification by the Commissioner of the state of domicile.

(VI) Other information deemed necessary by the Commissioner.

(B) The standards as defined in subparagraph (i) and (ii) applied to all open claims. If reserves are calculated on the standards defined in subparagraph (i) and (ii), future calculations must be on that basis.

* * * * *

(c) *Minimum standards for claim reserves of other benefits, including single premium credit health and accident insurance.*

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§ 84a.5. Premium reserves.

(a) *General requirements.*

(1) Unearned premium reserves are required for contracts, **except single premium credit health and accident insurance 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.

* * * * *

§ 84a.6. Contract reserves.

(a) *General requirements.*

* * * * *

(6) The total contract reserve established must incorporate provisions for moderately adverse deviations.

(b) *Minimum standards for contract reserves.*

(1) *Morbidity or other contingency.*

* * * * *

(iv) In determining the morbidity assumptions, the actuary shall use assumptions that represent the best estimate of anticipated future experience, but may not incorporate any expectation of future morbidity improvement for contracts issued on or after January 1, 2007. Morbidity improvement is a change in the combined effect of claim frequency and the present value of future expected claim payments given that a claim has occurred from the current morbidity tables or experience that will result in a reduction to reserves. The actuary can reflect the morbidity impact for a specific known event that has occurred and can be evaluated and quantified.

* * * * *

(3) *Termination rates.*

(i) Termination rates used in the computation of reserves shall be on the basis of a mortality table as

specified in Appendix A except as noted in subparagraphs (ii) [and], (iii), (iv) and (v).

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(iv) For long-term care individual contracts and group certificates issued on and after January 1, 2007, the following termination rates in addition to the mortality table rates specified in Appendix A may be used:

(A) For policy year 1, the lesser of 80% of the voluntary lapse rate used in the calculation of gross premiums and 6%.

(B) For policy years 2 through 4, the lesser of 80% of the voluntary lapse rate used in the calculation of gross premiums and 4%.

(C) For policy years 5 and later, the lesser of 100% of the voluntary lapse rate used in the calculation of gross premiums and 2%, except for group long-term care insurance where the 2% shall be 3%.

(v) For single premium credit disability insurance, termination rates may not be used.

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APPENDIX A

SPECIFIC STANDARDS FOR MORBIDITY, INTEREST AND MORTALITY

I. MORBIDITY.

(a) Minimum morbidity standards for valuation of specified individual contract health and accident insurance benefits are as follows:

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

* * * * *

(ii) *Claim reserves.* [The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.]

(A) Claims incurred on or after January 1, 2007: The 1985 Commissioners Individual Disability Table A (85CIDA) with claim termination rates multiplied by the following adjustment factors:

<i>Duration</i>	<i>Adjustment Factor</i>
Week 1	0.366
2	0.366
3	0.366
4	0.366
5	0.365
6	0.365
7	0.365
8	0.365
9	0.370
10	0.370
11	0.370
12	0.370
13	0.370
Month 4	0.391
5	0.371
6	0.435
7	0.500
8	0.564
9	0.613
10	0.633
11	0.712
12	0.756

<i>Duration</i>	<i>Adjustment Factor</i>
13	0.800
14	0.844
15	0.888
16	0.932
17	0.976
18	1.020
19	1.049
20	1.078
21	1.107
22	1.136
23	1.165
24	1.195
Year 3	1.369
4	1.204
5	1.199
6 and later	1.000

The 85 CIDA so adjusted for the computation of claim reserves shall be known as The 1985 Commissioners Individual Disability Table C (85 CIDC).

(B) Claims incurred prior to January 1, 2007: Optional use of either the minimum morbidity standard in effect for contract reserves on contracts issued on the same date the claim is incurred, or 85 CIDC, applied to all claims.

(C) If reserves for all claims are calculated on 85 CIDC, future calculations must be on 85 CIDC.

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(5) Single Premium Credit Health and Accident Insurance.

(i) *Contract reserves:*

(A) Contracts issued on or after January 1, 2007:

(I) Plans having less than a 30-day elimination period: The 85 CIDA with claim incidence rates increased by 12%.

(II) Plans having a 30-day and greater elimination period: The 85 CIDA for a 14 day elimination period with claim incidence rates increased by 12%.

(B) Contracts issued prior to January 1, 2007:

(I) Optional use of either:

(a) The mean of the amounts of unearned premium calculated from gross premiums in force on the pro rata basis and the Rule of 78 basis.

(b) The standard as defined in I(a)(5)(i)(A) applied to all contracts.

(II) If reserves are calculated on the standard defined in I(a)(5)(i)(A), future calculations must be on that basis.

(ii) *Claim Reserves:* Claim reserves are to be determined as defined in § 84a.4(c)(2).

(6) Other individual contract benefits.

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(b) Minimum morbidity standards for valuation of specified group contract health and accident insurance benefits are as follows:

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(2) **Single Premium Credit Health and Accident Insurance.**

(i) *Contract reserves.*

(A) Contracts issued on or after January 1, 2007:

(I) Plans having less than a 30-day elimination period: The 85 CIDA with claim incidence rates increased by 12%.

(II) Plans having a 30-day and greater elimination period: The 85 CIDA for a 14 day elimination period with claim incidence rates increased by 12%.

(B) Contracts issued prior to January 1, 2007:

(I) Optional use of either:

(a) The mean of the amounts of unearned premium calculated from gross premiums in force on the pro rata basis and the Rule of 78 basis.

(b) The standard as defined in I(a)(5)(i)(A) applied to all contracts.

(II) If reserves are calculated on the standard defined in I(a)(5)(i)(A), future calculations must be on that basis.

(ii) *Claim reserves.* Claim reserves are to be determined as defined in § 84a.4(c)(2).

(3) Other group contract benefits.

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[(III)] (III). MORTALITY.

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(c) Unless subsection (d) applies, the mortality basis used for individual contracts and group certificates issued on or after January 1, 1989, except long-term care individual contracts and group certificates issued on or after January 1, 1999, shall 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 and accident insurance contract. For long-term care individual contracts and group certificates issued on or after January 1, 1999, the mortality basis used shall be the 1983 Group Annuity Mortality Table without projection. **For long-term care insurance individual policies and group certificates issued on or after January 1, 2007, the mortality basis used shall be the 1994 Group Annuity Mortality Static Table.**

* * * * *