

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

Before the Insurance Administrator
Department of Consumer and Business Services

In the Matter of Amending OAR 836-031-0810 and) 836-031-0815 Relating to the Use of the 2001 CSO) Preferred Mortality Tables with Certain Contracts))	SUMMARY OF TESTIMONY AND HEARING OFFICER'S RECOMMENDATION
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Procedures Followed

On August 10, 2011, the Director filed with the Secretary of State a Notice of Proposed Rulemaking Hearing (Notice), giving notice that the Director proposed to begin rulemaking to incorporate into Oregon rules 2009 changes made by the National Association of Insurance Commissioners (NAIC) to Model Regulation #815, "Permitting the Recognition of Preferred Mortality Table for Use in Determining Minimum Reserve Liabilities."

This series of administrative rules (OAR 836-031-0800 to 836-031-0815) generally specify which mortality table is recognized for use in determining minimum reserve liabilities. Adoption of these amendments to the rules would allow a company to substitute the 2001 CSO Preferred Mortality Tables in place of the 2001 CSO Smoker or Nonsmoker Mortality Tables for policies issued prior to January 1, 2007. The conditions for use of the preferred tables are also set out in the rules and the use does require the consent of the director of the Department of Consumer and Business Services.

These changes are necessary to maintain Oregon's accreditation.

The Notice announced that a rulemaking hearing would be held on September 28, 2011, and that interested persons could submit comments through October 5, 2011. The notice was filed with a Statement of Need and Fiscal Impact which included a Statement of Statutory Authority, Need for Action, Advisory Committee, Principal Documents Relied Upon and Fiscal and Economic Impact. A copy of the Notice was published in the Secretary of State's Oregon Bulletin of September 2011. Copies of the Statement of Need and Fiscal Impact and the Notice of Proposed Rulemaking were delivered or mailed to Oregon life insurers, to persons on the Division mailing list established under the Administrative Procedures Act, to legislators who are required by law to be notified, and to the press and to other interested persons. Copies were also made available to interested persons through the Division's e-notify system and were posted on the Division's web site.

The proposed rules were reviewed by members of an external rulemaking advisory committee who also reviewed the statement of need and fiscal impact. The committee did not recommend any changes to the rule or to the fiscal impact. The committee expressed appreciation at the Division's efforts to continue to remain consistent with model regulations used throughout the nation.

Testimony Received and Hearing Officer Recommendation

The hearing was held as scheduled. Jeannette Holman, Senior Policy Analyst was the hearing officer. No members of the public testified at the hearing, and no one submitted written comments.

The hearing officer recommends that the proposed rules be adopted with one change. These rules refer to various mortality tables without providing information about the location of the tables. In order to provide clarity in the rule about how to locate the tables, the hearing officer recommends an addition to the rules to include information about how to locate or examine the tables. This will address potential issues raised by Smith v. Oregon Department of Corrections, 243 Or. App. 45, ___ P3d ___ (May 25, 2011).

The rulemaking was reviewed again for its economic effect on businesses, including small businesses, and there is no need for further change. The rulemaking is within the Director's rulemaking authority, and applicable rulemaking procedures were complied with.

Signed this 25th day of October 2011.

Department of Consumer and Business Services

/s/

Jeannette Holman, Hearing Officer

This Summary and Recommendation are reviewed and adopted.

Signed this 28th day of October 2011.

Department of Consumer and Business Services

/s/

Teresa Miller, Insurance Administrator