

## PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING RESERVE LIABILITIES AND NONFORFEITURE VALUES MODEL REGULATION

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### Section 1. Authority

This regulation is promulgated by the commissioner of insurance pursuant to section [insert applicable reference to the Standard Valuation Law] of the [insert State] Insurance Statute.

### Section 2. Scope

This rule applies to preneed insurance contracts, as defined in section 4 of this regulation, and to similar policies and certificates.

**Drafting Note:** The definition of preneed insurance is not well defined. The definition in this model regulation is based on policies used in the study that determined the 2001 CSO was inappropriate for determining reserves for policies used to fund funeral services and expenses. The commissioner shall have the authority to determine what constitutes similar policies and certificates.

### Section 3. Purpose

The purpose of this regulation is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products.

**Drafting Note:** Research completed by the Deloitte University of Connecticut Actuarial Center and commissioned by the Society of Actuaries as a part of a study of preneed mortality determined that the 2001 CSO Mortality Table, currently recognized as the prevailing table for the purposes of calculating reserves and nonforfeiture values both on a statutory basis and on a tax basis, produced inadequate reserves for policies issued in support of a prearrangement agreement which provides goods and services at the time of an insured's death.

### Section 4. Definitions

- A. The term “2001 CSO Mortality Table” means that mortality table, consisting of separate rates of mortality for male and female lives, 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 NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite

mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

- B. The term “Ultimate 1980 CSO” means the Commissioners’ 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.
- C. For the purposes of this regulation, preneed insurance is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

**Drafting Note:** Many States already have a definition of preneed insurance, or preneed contract. Some might also be called prearrangement contract or prearrangement insurance; however, not all States have a definition for this type of insurance. We tried to specifically define what preneed insurance was for this legislation. It was not intended to redefine something already defined, only to clarify what insurance contracts and certificates would be subject to this regulation.

If a State already has a definition of preneed insurance and wants to incorporate that definition, then the State may insert the following as section 4C:

[C. The term “preneed insurance” shall include within its meaning life insurance as defined in [insert applicable reference to definition] of the [insert state] Insurance Statute.]

If existing definitions are not sufficiently precise to define preneed life insurance, below are some examples of definitions used by States that have already promulgated a definition for preneed insurance. States may incorporate some or all, in whole or in part, of the following definition(s) into this regulation:

[C. The term “preneed insurance” shall include within its meaning a life insurance policy, annuity contract, or other insurance contract issued by an insurance company which, whether by assignment or otherwise, has for a purpose, the funding of a preneed funeral contract or an insurance-funded funeral or burial agreement, the insured or annuitant being the person for whose service the funds were paid.] Used by North Carolina - Statute 90-210.60(4).

[C. The term “preneed insurance” shall include within its meaning any agreement or contract whether funded by trust deposits or life insurance policies or annuities, which has for a purpose the furnishing or performance of funeral services or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body.] Used by Illinois - Statute 215 ILCS 45/1.

[C. The term “preneed insurance” shall include within its meaning any written contract, agreement, or mutual understanding, any series or combination of contracts, agreements, or mutual understandings, or any security or other instrument which is convertible into a contract, agreement, or mutual understanding whereby it is agreed that, upon the death of the preneed contract beneficiary, a final resting place, merchandise, or services shall be provided or performed in connection with the final disposition of the preneed contract beneficiary’s body. Consideration for a preneed contract is funds or the assignment of life insurance benefits.] Used by Colorado - Statute 10-15-102(13)(a).

## **Section 5. Minimum Valuation Mortality Standards**

For preneed insurance contracts, as defined in section 4C, and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

## **Section 6. Minimum Valuation Interest Rate Standards**

- A. The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in [insert applicable reference of the Standard Valuation Law].
- B. The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in [insert applicable reference to the Standard Nonforfeiture Law].

**Drafting Note:** Section 6 may not be appropriate or necessary for some States because specific language in their versions of the Standard Valuation Law or the Standard Nonforfeiture Law or their specific statutes.

## **Section 7. Minimum Valuation Method Standards**

- A. The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in [insert applicable reference of the Standard Valuation Law].
- B. The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in [insert applicable reference to the Standard Nonforfeiture Law].

**Drafting Note:** Section 7 may not be appropriate or necessary for some States because specific language in their versions of the Standard Valuation Law or the Standard Nonforfeiture Law or their specific statutes.

## **Section 8. Transition Rules**

- A. For preneed insurance policies issued on or after the effective date of this regulation and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.
- B. If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this regulation and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company’s asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

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- (1) A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;
  - (2) A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and
  - (3) Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this regulation and using the 2001 CSO as a minimum standard for reserves.
- C. Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

**Drafting Note:** Section 8 provides a transition period for policy forms that use the 2001 CSO mortality as the minimum standard for nonforfeiture and reserves. It also contains provisions for demonstrating appropriate reserves are established for the policies issued using the 2001 CSO tables during the transition period. The intent of this section is to not create a burden for those companies whose current products use the 2001 CSO tables. It provides those companies time to file policy forms with the 1980 CSO tables as the minimum standard and have them reviewed and approved by the State regulatory departments.

## **Section 9. Effective Date**

This rule is applicable to preneed insurance policies and certificates and similar contracts and certificates, as specified in section 2, issued on or after January 1, 2009.

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*Chronological Summary of Actions (all references are to the Proceedings of the NAIC)*

*2008 Proc. 1st Quarter 14-415, 14-418 to 14-419, 14-420 to 14-423, 14-501 to 14-503 (adopted)*

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**This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state’s activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC’s interpretation may or may not be shared by the individual states or by interested readers.**

**This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.**

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**KEY:**

**MODEL ADOPTION:** States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

**RELATED STATE ACTIVITY:** Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

**NO CURRENT ACTIVITY:** No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Alabama	ALA. ADMIN. CODE r. 482-1-143.01 to 482-1-143.10 (2008).	ALA. ADMIN. CODE r. 482-3-001-.02 to 482-3-001-.17 (2008); Opinion No. 2008-035 (2008); BULLETIN 7-9-2012 (2012).
Alaska	ALASKA ADMIN. CODE tit. 3, § 28.620 (2008) (incorporates substance of model by reference).	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	054-00-095 ARK. CODE R. (2009).	
California	BULLETIN 2008-2 (2008) (adopts model by reference).	CAL. CODE REGS. tit. 16, §§ 1267 to 1271 (2011).
Colorado	3 Colo. Code Regs. 702-4:4-1-15 (2009/2014).	BULLETIN B-2.9 (2010).
Connecticut	CONN. AGENCIES REGS. §§ 38a-78-36 to 38a-78-44 (2009).	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Florida	FLA. ADMIN. CODE ANN. r. 690-164.040 (2009).	
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	
Hawaii	NO CURRENT ACTIVITY	
Idaho	IDAHO ADMIN. CODE r. 18.01.80.000 to 18.01.80.013 (2008/2009).	
Illinois	ILL. ADMIN. CODE tit. 50, §§ 1414.10 to 1414.50 (2008).	
Indiana	NO CURRENT ACTIVITY	
Iowa	IOWA ADMIN. CODE r. 191-95.1 to 191-95.9 (2008).	IOWA CODE § 523A.204 (2001/2009).
Kansas	NO CURRENT ACTIVITY	
Kentucky	NO CURRENT ACTIVITY	
Louisiana	NO CURRENT ACTIVITY	
Maine	NO CURRENT ACTIVITY	
Maryland	MD. CODE REGS. 31.05.03.05 (2008/2009).	
Massachusetts	NO CURRENT ACTIVITY	
Michigan	BULLETIN 2008-17-INS (2008) (incorporates substance of model by reference).	
Minnesota	MINN. STAT. ANN. § 61A.258 (2009/2013).	
Mississippi	NO CURRENT ACTIVITY	



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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Missouri	MO. CODE REGS. ANN. tit. 20, § 400-1.175 (2008).	
Montana	NO CURRENT ACTIVITY	
Nebraska	210 NEB. ADMIN. CODE §§ 83-001 to 83-009 (2008).	
Nevada	NO CURRENT ACTIVITY	
New Hampshire	N.H. CODE ADMIN. R. ANN. INS. 3509 (2008).	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	N.M. CODE R. §§ 13.9.19.1 to 13.9.19.11 (2009).	
New York	N.Y. COMP. CODES R. & REGS. tit. 11, §§ 102.1 to 102.5 (2008/2009).	
North Carolina	11 N.C. ADMIN. CODE 11F.0606 (2008) (portions of model)	
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	OHIO ADMIN. CODE 3901:06-15 (2009).	
Oklahoma	OKLA. ADMIN. CODE §§ 365:10-27-1 to 365:10-27-7 (2008/2009).	
Oregon	OR. ADMIN. R. 836-051-0750 to 836-051-0775 (2008).	
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico	NO CURRENT ACTIVITY	

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<b>NAIC MEMBER</b>	<b>MODEL ADOPTION</b>	<b>RELATED STATE ACTIVITY</b>
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	S.C. CODE ANN. REGS. 69-57.3 (2008/2009).	BULLETIN 7-2009 (2009).
South Dakota	NO CURRENT ACTIVITY	
Tennessee	TENN. COMP. R. & REGS. 0780-1-52-.05 to 0780-1-52-.07 (2009).	TENN. COMP. R. & REGS. 0780-5-10.14 (2007).
Texas	NO CURRENT ACTIVITY	
Utah	UTAH ADMIN. CODE r. 590-251-1 to 590-251-9 (2008/2013).	
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	14 VA. ADMIN. CODE 5-323-10 to 5-323-70 (2008).	
Washington	NO CURRENT ACTIVITY	
West Virginia	W. VA. CODE R. §§ 114-86-1 to 114-86-6 (2009).	
Wisconsin	BULLETIN 1-6-2009 (2009) (incorporates substance of model by reference).	
Wyoming	61 WYO. CODE R. §§ 1 to 8 (2008).	

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The Life Insurance and Annuities (A) Committee requested that the American Academy of Actuaries (AAA) recommend an appropriate mortality table or tables for pre-need guaranteed issue and simplified underwriting life insurance. **2007 Proc. 3<sup>rd</sup> Quarter 321.**

The Life and Health Actuarial Task Force adopted this model. **2008 Proc. 1<sup>st</sup> Quarter 14-414.**

The Life Insurance and Annuities (A) Committee adopted this model during a conference call held on March 24, 2008. **2008 Proc. 1<sup>st</sup> Quarter 6-19.**

The Executive/Plenary Committee adopted the minutes of the Life Insurance and Annuities (A) Committee which included the adoption of this model. **2008 Proc. 1<sup>st</sup> Quarter 2-1.**

**Section 1.** Authority

**Section 2.** Scope

The Task Force discussed a recommendation suggested by an interested party that the NAIC develop a regulation to prevent pre-need business from changing reserve mortality to the 2001 CSO Mortality Table. **2007 Proc. 3<sup>rd</sup> Quarter 2101.**

An interested party presented a comment letter. This party noted that there was no transition period and that the January 1, 2008 effective date was a year before the mandatory conversion to the 2001 CSO Mortality Table. The party added that instead of focusing on pre-need business, the focuses should be on limited underwriting and guaranteed issue. **2007 Proc. 3<sup>rd</sup> Quarter 1441.**

A regulator suggested that new pre-need business use the 1980 CSO Mortality table. Another regulator favored mandatory use of the 1980 CSO Mortality Table. An interested party suggested that the regulation address pre-need, guaranteed issue and simplified issue. **2007 Proc. 3<sup>rd</sup> Quarter 1441.**

The Task Force changed the verbiage to have the model apply to pre-need business issued after January 1, 2009. **2007 Proc. 3<sup>rd</sup> Quarter 1442.**

An interested party asked that the drafting note allowing the commissioner to determine what were similar policies have an additional sentence requiring the determination be based on the use of the insurance. A regulator proposed removing the reference to limited underwriting. The Task Force agreed to this change. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

**Section 3.** Purpose

The Task Force discussed when this change needed to be effective. A regulator stated that the use of the 2001 CSO Table became mandatory for all ordinary life insurance issued after January 1, 2009. The Task Force discussed several possible solutions at length. **2007 Proc. 4<sup>th</sup> Quarter 14-26.**

The Task Force made a change to reflect that some companies are no longer using the 1980 CSO. **2007 Proc. 4<sup>th</sup> Quarter 14-28 to 14-29.**

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**Section 4.** Definitions

A regulator asked whether a definition of pre-need was needed. Another regulator said that the variations in definitions by states may require some variation in such a definition. **2007 Proc. 3<sup>rd</sup> Quarter 2101.**

The Task Force adjusted Subsection B to define Preneed Insurance Contract. **2007 Proc. 4<sup>th</sup> Quarter 14-28 to 14-29.**

The Task Force corrected the Drafting Note to define a “Prearrangement Insurance Policy.” **2007 Proc. 4<sup>th</sup> Quarter 14-29.**

The Task Force included a definition of the 2001 CSO. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

**Section 5.** Minimum Valuation Mortality Standards

An interested party presented a study to the Life and Health Actuarial Task Force. The party provided evidence that the proposed model was insufficient to cover mortality for preneed insurance particularly in the early durations. A regulator suggested considering the 2001 CSO residual tables. Another regulator noted that there would still be a need for a regulation to specify which table is to be used as the minimum standard for reserving preneed life insurance. The consensus opinion was that the proposal met the new model law requirements. A regulator said that the American Academy of Actuaries (AAA) was the regulatory interface for the actuarial profession and that the AAA should be the organization presenting the proposal. An interested party stated that they had tried to present the proposal to the AAA but was told that the AAA had “bigger fish to fry.” **2007 Proc. 2<sup>nd</sup> Quarter 1228.**

The Life and Health Actuarial Task Force requested that the model provide an interim solution to the preneed mortality problem. **2007 Proc. 2<sup>nd</sup> Quarter 1228.**

**Section 6.** Minimum Valuation Interest Rate Standards

**Section 7.** Minimum Valuation Method Standards

**Section 8.** Transition Rules

A regulator suggested changing the transition rule. The regulator stated that companies should demonstrate that they established sufficient reserves on a stand-alone basis for preneed policies reserved using the 2001 CSO. Another regulator stated that they did not like allowing a transition if the 2001 CSO is inadequate. After discussion on the 2001 CSO another regulator suggested a beginning and ending date for the use of the 2001 CSI. The Task Force agreed with this change. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

The testing and reporting requirement was limited to policies issued on or after the effective date of the regulation and prior to 2012. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

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**Section 8** (cont.)

The report of stand-alone reserve adequacy was incorporated into the annual actuarial opinion memorandum. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

The applicability to both reserves and nonforfeiture values was specifically stated. **2008 Proc. 1<sup>st</sup> Quarter 14-413.**

During a conference call held by the Life Insurance and Annuities (A) Committee, a commissioner asked whether there was any opposition to the model. NAIC staff responded that there was an issue concerning the transition period in Section 8. However, the current language was a compromise that everyone could support. **2008 Proc. 1<sup>st</sup> Quarter 6-19,**

**Section 9.**      Effective Date

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**Chronological Summary of Actions**

*First Quarter 2008: Model adopted.*

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