

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 2.81, Wis. Adm. Code, relating to use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products.

**HEARING INFORMATION**

**Date: May 7, 2009**

**Time: 10:00 a.m., or as soon thereafter as the matter may be reached**

**Place: OCI, Room 227, 125 South Webster St 2<sup>nd</sup> Floor, Madison, WI**

Written comments can be mailed to:

James W. Harris  
Legal Unit - OCI Rule Comment for Rule Ins 281  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

James W. Harris  
Legal Unit - OCI Rule Comment for Rule Ins 281  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Comments can be emailed to:

James W. Harris  
james.harris@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Website at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

**SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

## **INITIAL REGULATORY FLEXIBILITY ANALYSIS**

This rule does not impose any additional requirements on small businesses.

### **OCI SMALL BUSINESS REGULATORY COORDINATOR**

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address [eileen.mallow@wisconsin.gov](mailto:eileen.mallow@wisconsin.gov)

### **CONTACT PERSON**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov), (608) 264-8110, 125 South Webster Street – 2<sup>nd</sup> Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
RENUMBERING, AMENDING AND CREATING A RULE**

**To renumber** Ins 2.81(8);

**To amend** Ins 2.81(2) and 2.81(4)(a) and (b);

**To create** Ins 2.81(3) (em) and (j) and 2.81(8), Wis. Adm. Code,

**Relating to** use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

ss. 600.01, 601.41(3), 601.42, 623.06 and 628.34 (12), Stats.

**2. Statutory authority:**

ss. 600.01(2), 601.41 (3), 601.42 (3), 623.03, 623.04, 623.06, and s. 632.43, Stats.

**3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

The proposed rule is promulgated under the commissioner's authority to prescribe valuation and reserve liabilities and accounting standards and reporting for insurers.

**4. Related statutes or rules:**

The proposed rule relates to existing rules prescribing valuation of liabilities, nonforfeiture values, and actuarial reporting and analysis under ss. 601.42, 623.06 and 632.43, Stats., and ss. Ins 2.80 and ch. Ins 50, Wis. Adm. Code.

**5. The plain language analysis and summary of the proposed rule:**

Section Ins 2.81, Wis. Adm. Code, sets forth the requirements for use of the 2001 commissioner's standard ordinary (CSO) mortality table by insurers, meeting prescribed conditions, in determining minimum reserve liabilities and minimum nonforfeiture values, which may be used for policies issued on or after January 1, 2005, and before January 1, 2009, and which shall be used for policies issued on or after January 1, 2009. Research completed by the Deloitte University of Connecticut Actuarial Center commissioned by the Society of Actuaries as a part of a study of preneed mortality, determined that the 2001 CSO Mortality Table produces inadequate reserves for policies issued to fund

funeral services and expenses. The proposed rule provides that for determining the minimum mortality standard for determining reserve liabilities and nonforfeiture values for funeral policies as defined in s. 632.415, Stats., insurers shall use the 1980 commissioners standard ordinary (CSO) mortality table. Insurers may elect to use the 2001 CSO mortality table for funeral policies issued on or after January 1, 2009, and before January 1, 2012, provided the insurer certifies to the commissioner with supporting information that the reserve methodology employed by the insurer using the 2001 CSO mortality table as a minimum standard develops adequate reserves.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no federal regulations which address use of mortality tables to establish reserve liabilities and nonforfeiture values for insurers doing business in Wisconsin.

**7. Comparison of similar rules in adjacent states as found by OCI:**

**Illinois:** Ill. Ch. 215 ILCS 5/223, ff., permits use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table, with apparent permissive authority to use later tables adopted by the NAIC. The regulation does not differentiate for funeral policies.

**Iowa:** Iowa Adm. Code 191-94.3, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

**Michigan:** Mich. Comp. Laws, s. 500.838a, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

**Minnesota:** Minn. Stat. Ch. 61A.257, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

OCI review of NAIC models and recommendations based upon preneed mortality studies with respect to the adequacy of financial reserves, and insurer's financial information.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

This rule relates to insurer determination of minimum reserves and there is no significant effect on small businesses.

**10. See the attached Private Sector Fiscal Analysis.**

**11. A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses.

**12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:

**<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)

Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

**13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

James W. Harris

Legal Unit - OCI Rule Comment for Rule Ins 281

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

James W. Harris

Legal Unit - OCI Rule Comment for Rule Ins 281

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125 South Webster St – 2<sup>nd</sup> Floor

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Web site: **<http://oci.wi.gov/ocirules.htm>**

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**The proposed rule changes are:**

**SECTION 1. Section Ins 2.81(2) and (4) (a) and (b) are amended to read:**

Ins 2.81(2) PURPOSE. The purpose of this section is to recognize, permit and prescribe the use of: the 2001 commissioners' standard ordinary CSO mortality table in accordance with s. 623.06(2) (am) 3., Stats., standard valuation law, and s. 632.43 (6m) (e) 3. f., Stats., standard nonforfeiture law for life insurance; the 2001 CSO mortality table in s. Ins 2.20 unisex nonforfeiture values in certain life insurance policies, s. Ins 2.35 smoker and nonsmoker mortality tables for minimum reserve liabilities and minimum nonforfeiture benefits, and s. Ins 2.80 valuation of life insurance policies; mortality tables that reflect differences in mortality between

preferred and standard lives in determining minimum reserve liabilities in accordance with s. 623.06 (2) (am) 3., Stats., standard valuation law, and s. Ins 2.80 valuation of life insurance policies; and the 1980 commissioners' standard ordinary CSO mortality table for determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for funeral policies.

Ins. 2.81(4) 2001 CSO MORTALITY TABLE. (a) Except as provided in sub. (8), At at the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this section, the 2001 CSO mortality table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in par. (b) to which s. 623.06 (2) (am) 3., Stats., s. 632.43 (6m) (e) 3. f., Stats., s. Ins 2.20, s. 2.35, or s. 2.80 are applicable. If the company elects to use the 2001 CSO mortality table, it shall do so for both valuation and nonforfeiture purposes.

(b) Except as provided in sub. (8), and Subject subject to the conditions stated in this ~~regulation~~ section, the 2001 CSO mortality table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which s. 623.06 (2) (am) 3., s. 632.43 (6m) (e) 3. f., Stats., s. Ins 2.20, s. Ins 2.35, or s. Ins 2.80 are applicable.

**SECTION 2. Section Ins 2.81 (3) (em) and (j) are created to read:**

Ins 2.81 (3) (em) "Funeral policies" means life insurance policies as defined in s. 632.415, Stats.

Ins 2.81 (3) (j) "Ultimate 1980 CSO" means the 1980 commissioners' standard ordinary mortality table without 10-year select mortality factors, incorporated into the standard valuation law as provided in s. 623.06 (2) (am) 1., Stats.

Note: The Ultimate 1980 CSO mortality table may be obtained from the website of the Office of the Commissioner of Insurance ([www.oci.wi.gov](http://www.oci.wi.gov)) or by writing to the Office.

**SECTION 3. Section Ins 2.81 (8) is renumbered to be 2.81 (9).**

**SECTION 4. Section Ins 2.81 (8) is created to read:**

Ins 2.81 (8) FUNERAL POLICIES. (a) For funeral policies, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO, except as provided in par. (b).

(b) For funeral policies issued on or after January 1, 2009, and before January 1, 2012, the 2001 CSO mortality table may be used as the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds.

(c) If an insurer elects to use the 2001 CSO mortality table as a minimum standard for any funeral policy issued on or after January 1, 2009, and before January 1, 2012, the insurer shall provide as a part of the regulatory asset adequacy issues summary submitted in support of the insurer's asset adequacy testing an annual written notification to the domiciliary commissioner which shall include all of the following:

1. A complete list of all funeral policy forms that use the 2001 CSO mortality table as a minimum standard.

2. A certification signed by the appointed actuary stating that the reserve methodology employed by the insurer in determining reserves for the funeral policies issued on or after January 1, 2009, and before January 1, 2012, using the 2001 CSO mortality table as a minimum standard, develops adequate reserves. For purposes of the certification, the funeral policies using the 2001 CSO mortality table as a minimum standard may not be aggregated with any other policies.

3. Supporting information regarding the adequacy of reserves for funeral policies issued on or after January 1, 2009, and before January 1, 2012, and using the 2001 CSO mortality table as a minimum standard for reserves.

(d) For funeral policies issued on or after January 1, 2012, the Ultimate 1980 CSO mortality table must be used as the minimum mortality standard for determining reserve liabilities and nonforfeiture values.

**SECTION 5.** These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 26th day of March, 2009.

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Sean Dilweg  
Commissioner of Insurance

**Office of the Commissioner of Insurance  
Private Sector Fiscal Analysis**

for Section Ins 2.81 relating to use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products

This rule change will have no significant effect on the private sector regulated by OCI.



## FISCAL ESTIMATE WORKSHEET

### Detailed Estimate of Annual Fiscal Effect

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 281</b>

**Subject**

use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for prepared funeral life insurance products

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
**None**

Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs by Category	\$ 0	\$ -0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
C. State Revenues	Increased Rev.	Decreased Rev.
GPR Taxes <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0 None	\$ -0 None

#### NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>None 0</u>	\$ <u>None 0</u>
NET CHANGE IN REVENUES	\$ <u>None 0</u>	\$ <u>None 0</u>

Prepared by: James W. Harris	Telephone No. (608) 267-2833	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccyy) 03/26/2009

