

STATE OF NORTH DAKOTA

BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of the Adoption)
Of Proposed Rules Regarding:)
Pre-Need Life Insurance Minimum)
Standards for Determining Reserve)
Liabilities and Nonforfeiture Values)

REGULATORY ANALYSIS
SMALL ENTITY ECONOMIC
IMPACT STATEMENT, AND
SMALL ENTITY REGULATORY
ANALYSIS

FILE NO. RU-08-223

I. REGULATORY ANALYSIS

The North Dakota Insurance Department issues this regulatory analysis as required by N.D.C.C. § 28-32-08. An agency must issue a regulatory analysis if a written request for an analysis is filed by the Governor or a member of the Legislative Assembly or a proposed rule being adopted by the agency is expected to have an impact on the regulated community in excess of \$50,000. *Id.*

The proposed rules are expected to have an impact on the regulated community in excess of \$50,000.

A. The Classes of Persons Who Probably Will Be Affected by the Proposed Rules

The class of persons who will probably be affected by the proposed rules are insurance companies that sell pre-need life insurance policies and the consumers that buy them. Each of these classes potentially bears the burden and the benefit of these proposed rules.

B. A Description of the Probable Impact Including the Economic Impact of the Proposed Rules

The proposed rules will require that the minimum mortality standard for pre-need life insurance contracts for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the ultimate 1980 CSO. The probable impact is that it will require insurers to have larger, more appropriate reserves for the pre-need life insurance policies it sells.

C. The Probable Costs to the Agency of Implementation and Enforcement of the Proposed Rule and Any Anticipated Effect on State Revenues

The probable cost to the agency of implementation and enforcement of these rules will be minimal. Companies that sell life insurance are already required to use certain mortality tables for determining reserve liabilities and nonforfeiture values. This rule will represent a change in only the specific mortality table used to calculate those reserves.

D. A Description of Any Alternative Methods for Achieving the Purpose of the Proposed Rules That Were Seriously Considered by the Agency and the Reasons Why the Methods Were Rejected in Favor of the Proposed Rules

The Commissioner considered continuing to require the mortality tables that are currently in effect. The current minimum mortality standard (2001 CSO), however, would produce inadequate reserves for pre-need life insurance policies. This standard was rejected because it does not generate adequate reserves for this type of life insurance business.

II. SMALL ENTITY ANALYSES

N.D.C.C. § 28-32-08.1 requires that an agency prepare a regulatory analysis and an economic impact statement of the impact of the rule changes on a small entity. "Small entity" is defined by state law to include small businesses, small organizations, and small political subdivisions. *Id.* "Small business" is defined to mean a business entity, including its affiliates, which is independently owned and operated and employs fewer than 25 full-time employees; or has gross annual sales of less than \$2,500,000. *Id.* "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. *Id.* "Small political subdivision" means a political subdivision with a population of less than 5,000. *Id.*

A. Small Entity Economic Impact Statement

1. Small entities subject to the proposed rule

The small entities that may possibly be subject to these proposed rules are insurers that meet the statutory definition of "small entity".

2. Administrative and other costs required for compliance with the proposed rule

The administrative and other costs required for compliance with the proposed rules are expected to be minimal. The rules will require the use of a certain mortality table so that insurance companies have sufficient reserves for the pre-need life insurance policies they sell.

3. Probable cost and benefit to private persons and consumers who are affected by the proposed rule

There could be some cost to private persons and consumers since the proposed rules affect the reserves a company must keep for certain life insurance products. The probable benefits to private persons and consumers include furthering consumer protection by more accurately relating reserve levels to underwriting risks.

4. Probable effect of the proposed rule on state revenues

There is expected to be no effect on state revenues from the proposed rules.

5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule

The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. In those instances where alternative methods of achieving the purpose of the proposed rule were available, the alternatives were not selected because of the potential cost associated with them or because they were not equally effective in assuring appropriate reserves for companies that sell pre-need life insurance policies.

B. Small Entity Regulatory Analysis

1. Establishment of less stringent compliance or reporting requirements for small entities

Less stringent reporting requirements for small entities were considered. The proposed rules do not, however, impose any new reporting requirements. Less stringent compliance requirements were also considered but they were not appropriate to achieve the goal of assuring appropriate insurance company reserves for pre-need life insurance business.

2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities

The Commissioner considered less stringent schedules or deadlines where possible. A transition period is provided for by the proposed rule in Section 47-04-07.3-05 to allow companies time to implement the new mortality table.

3. Consolidation or simplification of compliance or reporting requirements for small entities

To the extent possible, compliance or reporting requirements for small entities were simplified or made less onerous or made as streamlined as possible. As noted

above, a transition period is provided for by the proposed rule in Section 47-04-07.3-05 to allow companies time to implement the new mortality table.

4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule

Small entities were not given different standards to comply with than large entities. All companies selling pre-need life insurance policies, regardless of size, will be required to use the 1980 CSO.

5. Exemption of small entities from all or any part of the requirements contained in the proposed rule

Small entities were not given different standards to comply with than large entities.

DATED this 18th day of July, 2008.



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