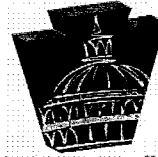


# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency:

**Insurance Department**

(2) Agency Number:

Identification Number: 11-246

IRRC Number: 2867

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(3) Short Title:

**Recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities.**

(4) PA Code Cite:

**31 Pa Code Chapter 84d**

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

**Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429.**

Secondary Contact:

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

**This final-form rulemaking updates Chapter 84d to include amendments made by the NAIC to Model Regulation 815, entitled "Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities." That regulation recognizes, permits, and prescribes the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities. These amendments were proposed in conjunction with amendments to Chapters 84b and 84c of Title 31 of the Pennsylvania Code. All three sets of amendments should be promulgated simultaneously in order to effectively implement the requirements set forth by the amendments to the NAIC models.**

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: \_\_\_\_\_
- B. The date or dates on which public meetings or hearings will be held: \_\_\_\_\_
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: January 1, 2011
- D. The expected effective date of the final-form regulation: March 1, 2011
- E. The date by which compliance with the final-form regulation will be required: March 1, 2011
- F. The date by which required permits, licenses or other approvals must be obtained: \_\_\_\_\_

(10) Provide the schedule for continual review of the regulation.

**The Department reviews each of its regulations for continued effectiveness on a triennial basis.**

## Regulatory Analysis Form

### SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

**Sections 206, 506, 1501, 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411, 412), section 301(c)(1) of The Insurance Department Act of 1921 (40 P.S. §71(c)(1)), section 410F(e)(8)(F) of The Insurance Company Law (40 P. S. § 510.1(e)(8)(F)), and the Unfair Insurance Practices Act (40 P. S. § § 1171.1—1171.15). See also, 31 Pa. Code §§84c.5(a) and (b) (relating to basic reserves minimum standard; and deficiency reserves minimum standard).**

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

**No. However, this amendment will maintain consistency of this regulation with the NAIC model.**

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

**Residents of this Commonwealth who purchase life insurance contracts will benefit from the rulemaking because, generally, premium charges could be reduced. Specifically, the amendments provide a company the option of substituting the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Smoker or Nonsmoker Mortality Table for policies issued on or after January 1, 2004 and prior to January 1, 2007, with the consent of the Commissioner under certain conditions set forth in the regulation. Since the 2001 CSO Preferred Class Structure Mortality Table distinguishes between preferred and standard risks, the reserve liabilities calculated using this table will likely be reduced for preferred lives. Generally, lower reserves enable an insurer to charge customers lower premiums. Conversely, if an insurer is required to maintain redundant reserves, generally, the added cost to the insurer results in higher premium charges.**

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

**Since the use of the 2001 CSO Preferred Class Structure Mortality Table is optional, insurers will likely not use the table unless it will reduce reserves. Therefore, there are no parties that will be adversely affected by the amendment to the regulation.**

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

**All life insurance companies will have the option to use the 2001 CSO Preferred Class Structure Mortality Table for policies issued on or after January 1, 2004 and prior to January 1, 2007 as the minimum valuation standard under the conditions articulated in the regulation.**

**Regulatory Analysis Form**

**SECTION III: COST AND IMPACT ANALYSIS**

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**Use of the 2001 CSO Preferred Class Structure Mortality Table by an insurer may reduce reserve requirements, but it is not possible to assess what effect such use of the additional tables will have on each specific company's reserves. There should be no additional costs to the regulated community associated with compliance with these amendments to the regulation.**

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no costs or savings to local governments associated with this rulemaking.**

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no costs or savings to state government associated with this rulemaking.**

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

## Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

N/A

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

**The insurance industry, working with the NAIC, provided input regarding the amendments to this regulation.**

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**No other non-regulatory alternatives were considered because the standards are currently established by regulation. Therefore, amendment to Chapter 84d is necessary to revise the minimum valuation standards of the chapter and maintain consistency with the NAIC model.**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**No.**

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

**The rulemaking will not put Pennsylvania at a competitive disadvantage with other states.**

## Regulatory Analysis Form

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies?  
If yes, explain and provide specific citations.

**No.**

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**N/A**

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**N/A**



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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to  
form and legality. Attorney General

By \_\_\_\_\_  
(Deputy Attorney General)

\_\_\_\_\_  
Date of Approval

→ Check if applicable.  
Copy not approved. Objections  
attached.

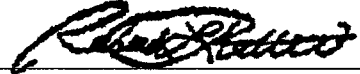
Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated  
by:

Insurance Department

\_\_\_\_\_  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-246


DATE OF ADOPTION: \_\_\_\_\_

BY: 

Robert L Pratter  
Acting Insurance Commissioner

TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR  
SECRETARY)

Copy below is hereby approved as to form and  
legality. Executive or Independent Agencies

BY:   
Andrew C. Clark

NOV - 8 2010  
DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)  
(~~CHIEF COUNSEL, INDEPENDENT AGENCY~~)  
(~~STRIKE INAPPLICABLE TITLE~~)

→ Check if applicable. No Attorney General  
approval or objection within 30 days after  
submission.

NOTICE OF FINAL FORM RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 84d Sections 84d.3a

Recognition Of The 2001 CSO Mortality Table For Use In Determining Minimum  
Reserve Liabilities and Nonforfeiture Benefits And The 2001 CSO Preferred Class  
Structure Mortality Table For Use In Determining Minimum Reserve Liabilities

## PREAMBLE

The Insurance Department (Department) amends Chapter 84d (relating to recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities) to read as set forth in Annex A. This final-form rulemaking is made under the authority of sections 206, 506, 1501, 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411, 412), section 301(c)(1) of The Insurance Department Act of 1921 (40 P.S. §71(c)(1)), section 410F(e)(8)(F) of The Insurance Company Law (40 P. S. § 510.1(e)(8)(F)), and the Unfair Insurance Practices Act (40 P. S. § § 1171.1—1171.15). See also, 31 Pa. Code §§84c.5(a) and (b) (relating to basic reserves minimum standard; and deficiency reserves minimum standard).

### *Purpose*

Section 301(c)(1) of The Insurance Department Act of 1921 (40 P.S. §71(c)(1)) authorizes the Commissioner to promulgate regulations specifying new mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC) for use in determining minimum valuation standards. The purpose of this final-form rulemaking is to update Chapter 84d to include amendments made by the NAIC to Model Regulation 815, entitled "Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities." That regulation recognizes, permits, and prescribes the use of mortality tables that reflect differences in mortality between preferred and standards lives in determining minimum reserve liabilities.

### *Comments and Response*

Notice of proposed rulemaking was published on September 4, 2010, in the Pennsylvania Bulletin at 40 Pa.B. 5067 with a 30-day comment period. One comment in support of the amendments was received from the Insurance Federation of Pennsylvania, Inc. (IFP). On November 3, 2010, the Independent Regulatory Review Commission (IRRC) indicated that it did not have any comments objections, comments, or recommendations regarding on this regulation.

### *Affected Parties*

This final-form rulemaking will apply to insurers issuing life insurance coverage in this Commonwealth.

### *Fiscal Impact*

#### *State Government*

There will be no increase in cost to the Department due to the use of the new mortality table since the extent of the analysis performed by the Department is not affected by the mortality table used in the calculation of reserves.

### *General Public*

It is possible that the cost of insurance will be reduced for consumers who purchase life insurance coverage due to improved mortality recognized by the 2001 CSO Preferred Class Structure Mortality Table.

### *Political Subdivisions*

There will be no fiscal impact on political subdivisions as insurers will continue to maintain adequate reserves.

### *Private Sector*

The use of the 2001 CSO Preferred Class Structure Mortality Table generally will reduce the reserve liabilities of an insurance company. In addition, the use of the table is optional.

### *Paperwork*

The adoption of this final-form rulemaking would not impose additional paperwork on the Department. An insurance company that elects to use the 2001 CSO Preferred Class Structure Mortality Table as the minimum valuation standard will be required to submit at election and annually thereafter a certification to the Commissioner that the conditions for use of the table are satisfied.

### *Effectiveness/Sunset Date*

This rulemaking will become effective 60 days after publication in the *Pennsylvania Bulletin* as final-form rulemaking. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

### *Contact Person*

Questions regarding this final-form rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120. Questions may also be e-mailed to [psalvatore@state.pa.us](mailto:psalvatore@state.pa.us) or faxed to (717) 705-3873.

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on November 9, 2010, the Department submitted a copy of this final-form rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted rulemaking, the Department has, as required by the Regulatory Review Act, provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulations were deemed approved by the House and Senate Committees on \_\_\_\_\_. Under section 5(g) of the Regulatory Review Act, the final-form regulations were approved, effective \_\_\_\_\_.

### ***Findings***

The Commissioner finds that:

(1) Public notice of intention to adopt these final-form regulations was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

### ***Order***

The Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code, Chapter 84b, are amended as set forth in Annex A.

(b) The Department shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form regulations adopted by this order take effect 60 days after publication in the Pennsylvania Bulletin.

*Robert L. Pratter*  
*Acting Insurance Commissioner*

CONTINUATION SHEET FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
Pursuant to Commonwealth Documents Law

ANNEX A

TITLE 31. INSURANCE. PART VI. LIFE INSURANCE. CHAPTER 84d. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS AND THE 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

Sec.

84d.3a.	2001 CSO Preferred Class Structure Mortality Table.
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**§ 84d.3a. 2001 CSO Preferred Class Structure Mortality Table.**

(a) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this chapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. **For policies issued on and after January 1, 2004, and prior to January 1, 2007, these tables may be substituted as the minimum valuation standard with the consent of the Commissioner subject to the conditions of subsections (b) through (g) of this section. In determining consent, the Commissioner may rely on the consent of the chief insurance regulatory official of the company's state of domicile.** Prior to that election, the company shall demonstrate to the satisfaction of the Commissioner that at least 20% of the business to be valued on this table is in one or more of the preferred classes.

(b) For each policy form with separate rates for preferred and standard nonsmokers, a company may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker Tables to substitute for the 2001 CSO Nonsmoker Mortality Tables as the minimum valuation standard. At the time of election and annually thereafter, except for business valued using the Residual Standard Nonsmoker Table, the company shall provide the Commissioner a certification from the appointed actuary of the following:

(1) For each class, the present value of death benefits over the next 10 years after the valuation date using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the valuation table used for that class.

(2) For each class, the present value of death benefits over the future life of the contracts using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the valuation table used for that class.

(c) For each policy form with separate rates for preferred and standard smokers, a company may use the Preferred Smoker and Residual Standard Smoker Tables to substitute for the 2001 CSO Smoker Mortality Tables as the minimum valuation standard. At the time of election and annually thereafter for business valued using the Preferred Smoker Table, the company shall provide the Commissioner a certification from the appointed actuary of the following:

(1) The present value of death benefits over the next 10 years after the valuation date using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the Preferred Smoker Table.

(2) The present value of death benefits over the future life of the contracts using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the Preferred Smoker Table.

(d) When the 2001 CSO Preferred Class Structure Mortality Table is the minimum reserve standard for any policy form for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Chapter 84b (relating to actuarial opinion and memorandum). The Commissioner may exempt a company from this requirement if it only does business in this Commonwealth.

(e) Unless exempted by the Commissioner, every authorized company using the 2001 CSO Preferred Class Structure Mortality Table shall annually file with the Commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the Commissioner, statistical reports showing mortality and such other information as the Commissioner may deem necessary or expedient for the administration of the provisions of this chapter. The form of the reports shall be established by the Commissioner or the Commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the Commissioner.

**(f) The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007, is not permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following cases:**

**(1) Where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that provides coverage for the period from the next policy premium due date to the earlier of the end of the policy year and the next reinsurance premium due date, and would be refunded to the ceding entity upon the termination of the policy.**

**(2) Where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding**

**entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.**

**(g) For purposes of the conditions set forth in subsection (f), both the reserve credit and the gross reserve before reinsurance for the mean reserve method are defined as the mean reserve minus the deferred premium asset, and for the mid-terminal reserve method must include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table.**

**Comments on the regulation listed below have been received from the following:**

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<i>Reg #</i>	<i>Regulation Title</i>
<i>11-246</i>	<i>2001 CSO Mortality Table</i>

---

*Mr. Samuel R. Marshall*

Date Received

*10/7/2010*

Date Sent To Cmtes/IRRC

*10/12/2010*

*President*

*Insurance Federation of Pennsylvania, Inc.*

*1600 Market St.*

*Philadelphia, PA 19103*

*Letter Co-Author*

*Phone (215) 665-0505 X00000*

*EMail sammy1@ifpenn.org*

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November 9, 2010

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Comm.  
333 Market Street  
Harrisburg, PA 17101

Re: Insurance Department Final Regulation No. 11-246, recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities

Dear Mr. Kaufman:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final regulation 31 Pa. Code, Chapter 84d, recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO Preferred Class Structure Mortality Table for use in determining minimum reserve liabilities.

The purpose of this final-form rulemaking is to update Chapter 84d to include amendments made by the NAIC to Model Regulation 815, entitled "Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities."

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter J. Salvatore".

Peter J. Salvatore  
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 11-246  
 SUBJECT: MORTALITY TABLES  
 AGENCY: DEPARTMENT OF INSURANCE

**TYPE OF REGULATION**

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
11-9-10	<i>Bonnie Brackbill</i>	HOUSE COMMITTEE ON INSURANCE
11-9-10	<i>Frank LaRocca</i>	MAJORITY CHAIRMAN <u>REP. ANTHONY DELUCA</u>
11-9-10	<i>John Miller</i>	SENATE COMMITTEE ON BANKING & INSURANCE
11-9-10	<i>Walter Powers</i>	MAJORITY CHAIRMAN <u>SEN. DONALD C. WHITE</u>
11/9/10	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

November 9, 2010