

Regular Session, 2011

HOUSE BILL NO. 283

BY REPRESENTATIVE AUBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE: Provides for technical recodification of certain provisions of the La. Insurance Code

1 AN ACT

To amend and reenact R.S. 22:901(A), (B), (C)(1) and (3), and (D)(1)(introductory paragraph) and (a) and (2), 902, 904, 905, 906, 907, 910, 912(A), (B)(1), (C), (D)(1)(b), (E), and (F), 913, 914, 915(B), 931, 932(B)(introductory paragraph) and (1), (D)(introductory paragraph) and (2), and (E), 934, 935, 936(A)(1)(introductory paragraph) and (2), (B), (D)(1), (2), and (4), (E), (F)(1), (G)(1), (4), and (8)(introductory paragraph) and (b) and (d) through (g), (I)(1), (J)(1), (2), (3), and (5), (K)(1)(g) and (h), 941(B)(introductory paragraph) and (6), 942(introductory paragraph) and (1), (10)(b), and (11), 943(D)(2), 944(A), 951(A), 952(A)(2), (B)(introductory paragraph) and (4), and (J), 961, 1541, 1542(1), (4), (6), (9), (11), (14), and (18), 1544(B)(5) through (8) and (D), 1545(I)(1)(introductory paragraph), 1546(A)(3), (D)(4), and (F), 1547(A)(10), (C)(2), (D), (E), (G), (H), and (I)(3), 1548(A)(1) and (3), (B)(2) and (3)(b), (D)(2), and (E), 1549(B)(4) and (5), (C), (D), (E)(introductory paragraph), (F), and (H), 1550(A)(2), (B)(1) and (d) and (2), (C), (D), (E)(introductory paragraph), and (H), 1554(G), 1555, 1556(A), (B), and (C), 1557(B)(1) and (2), 1558(B)(3) and (4), (C), and (D), 1559(C), (D)(1), and (E)(1), 1562(C)(1)(b) and (d), (E)(2), and (H)(introductory paragraph) and (4), 1564(A)(2), (B)(1)(a), and (C), 1571, 1573(C) through (G), (I)(1)(a), (K), (L), and (M), 1574(A) through (D)(1), 1575(C)(2) and (D), 1583, the heading of R.S. 22:1584, 1585(C), 1591, 1592, 1593(A)(introductory paragraph) and (1), 1594(introductory paragraph), 1595, 1597, 1598(C), 1599(A) and (C)(introductory paragraph),

1 1600(B)(introductory paragraph), 1603(1) and (3), 1604(A)(2), 1605, 1622, 1623(A),
2 (B), (D), and (F), 1624, 1625(A) and (H), 1627(A)(2), the heading of Part III of
3 Chapter 5 of the Louisiana Revised Statutes of 1950, 1641(introductory paragraph),
4 (1)(introductory paragraph), (c), (g), and (j), (4), and (7), 1642(A) and (C), 1644(D),
5 1651(B)(6), (D), (H)(1), and (I)(1), 1652, 1654(A)(introductory paragraph) and
6 (C)(introductory paragraph), 1657, 1662(6)(a)(introductory paragraph) and (14),
7 1664(A) and (C)(2), 1665(A)(introductory paragraph) and (1), 1669, 1670(A)(2) and
8 (D), 1671(A), (B)(2), and (C), 1673(C), 1693(A), 1694(A), 1696(A), 1697,
9 1698(A)(2) and (D), 1699(A)(3), (B), and (F), 1704(E)(1)(a) and (b), 1706(F), 1722,
10 1723(A)(introductory paragraph), (B)(introductory paragraph) and (2), (D), and (F),
11 1724(5), 1726(A) and (B), 1727(A)(1), (2), (3), (4)(introductory paragraph), (7), and
12 (8), (B)(4), (C), and (F), 1728(6), 1729(A) and (F), 1731(A)(2), 1741, 1747, 1761,
13 1763(B), 1767, and 1768; to enact R.S. 22:821(B)(31), (32), and (33), 1557(C),
14 1641(8) and (9), and 1766(C); and to repeal R.S. 22:1546(G) and (H), 1566, 1746(E),
15 1751, and 1769, all relative to technical recodification of certain provisions of the
16 Louisiana Insurance Code, including correction of citations, updates of terms and
17 language, reorganization of provisions, elimination of obsolete or ineffective
18 provisions, harmonizing of inconsistent provisions, and consolidating all provisions
19 authorizing fees; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 22:901(A), (B), (C)(1) and (3), and (D)(1)(introductory paragraph)
22 and (a) and (2), 902, 904, 905, 906, 907, 910, 912(A), (B)(1), (C), (D)(1)(b), (E), and (F),
23 913, 914, 915(B), 931, 932(B)(introductory paragraph) and (1), (D)(introductory paragraph)
24 and (2), and (E), 934, 935, 936(A)(1)(introductory paragraph) and (2), (B), (D)(1), (2), and
25 (4), (E), (F)(1), (G)(1), (4), and (8)(introductory paragraph) and (b) and (d) through (g),
26 (I)(1), (J)(1), (2), (3), and (5), (K)(1)(g) and (h), 941(B)(introductory paragraph) and (6),
27 942(introductory paragraph) and (1), (10)(b), and (11), 943(D)(2), 944(A), 951(A),
28 952(A)(2), (B)(introductory paragraph) and (4), and (J), 961, 1541, 1542(1), (4), (6), (9),
29 (11), (14), and (18), 1544(B)(5) through (8) and (D), 1545(I)(1)(introductory paragraph),

1 1546(A)(3), (D)(4), and (F), 1547(A)(10), (C)(2), (D), (E), (G), (H), and (I)(3), 1548(A)(1)
2 and (3), (B)(2) and (3)(b), (D)(2), and (E), 1549(B)(4) and (5), (C), (D), (E)(introductory
3 paragraph), (F), and (H), 1550(A)(2), (B)(1) and (d) and (2), (C), (D), (E)(introductory
4 paragraph), and (H), 1554(G), 1555, 1556(A), (B), and (C), 1557(B)(1) and (2), 1558(B)(3)
5 and (4), (C), and (D), 1559(C), (D)(1), and (E)(1), 1562(C)(1)(b) and (d), (E)(2), and
6 (H)(introductory paragraph) and (4), 1564(A)(2), (B)(1)(a), and (C), 1571, 1573(C) through
7 (G), (I)(1)(a), (K), (L), and (M), 1574(A) through (D)(1), 1575(C)(2) and (D), 1583, the
8 heading of R.S. 22:1584, 1585(C), 1591, 1592, 1593(A)(introductory paragraph) and (1),
9 1594(introductory paragraph), 1595, 1597, 1598(C), 1599(A) and (C)(introductory
10 paragraph), 1600(B)(introductory paragraph), 1603(1) and (3), 1604(A)(2), 1605, 1622,
11 1623(A), (B), (D), and (F), 1624, 1625(A) and (H), 1627(A)(2), the heading of Part III of
12 Chapter 5 of the Louisiana Revised Statutes of 1950, 1641(introductory paragraph),
13 (1)(introductory paragraph), (c), (g), and (j), (4), and (7), 1642(A) and (C), 1644(D),
14 1651(B)(6), (D), (H)(1), and (I)(1), 1652, 1654(A)(introductory paragraph) and
15 (C)(introductory paragraph), 1657, 1662(6)(a)(introductory paragraph) and (14), 1664(A)
16 and (C)(2), 1665(A)(introductory paragraph) and (1), 1669, 1670(A)(2) and (D), 1671(A),
17 (B)(2), and (C), 1673(C), 1693(A), 1694(A), 1696(A), 1697, 1698(A)(2) and (D),
18 1699(A)(3), (B), and (F), 1704(E)(1)(a) and (b), 1706(F), 1722, 1723(A)(introductory
19 paragraph), (B)(introductory paragraph) and (2), (D), and (F), 1724(5), 1726(A) and (B),
20 1727(A)(1), (2), (3), (4)(introductory paragraph), (7), and (8), (B)(4), (C), and (F), 1728(6),
21 1729(A) and (F), 1731(A)(2), 1741, 1747, 1761, 1763(B), 1767, and 1768 are hereby
22 amended and reenacted and R.S. 22:821(B)(31), (32), and (33), 1557(C), 1641(8) and (9),
23 and 1766(C) are hereby enacted to read as follows:

24 §821. Fees

25 * * *

26 B. The following fees and licenses shall be collected in advance by the
27 commissioner of insurance:

28 * * *

(31) Fee for application for insurance producer for specialty limited lines credit insurance.

(a) Initial application if registering twenty or fewer

employees \$ 250.00

(b) Initial application if registering twenty-one or more

employees \$ 1,000.00

(c) Annual renewal fee if registering twenty or fewer

employees \$ 125.00

(d) Annual renewal fee if registering twenty-one or more

employees \$ 500.00

(32) Fee for application for insurance producer for specialty limited lines motor vehicle title insurance line.

(a) Initial application if registering twenty or fewer

employees \$ 250.00

(b) Initial application if registering twenty-one or more

employees \$ 1,000.00

(c) Fee for registration of employees, per employee up to . . \$ 20.00

(d) Annual renewal fee if registering twenty or fewer

employees \$ 125.00

(e) Annual renewal fee if registering twenty-one or more

employees \$ 500.00

(33) Motor vehicle rental insurers.

(a) Initial license application:

(i) Twenty-six or more vehicles \$ 500.00

(ii) Twenty-five or fewer vehicles \$ 100.00

(b) Renewal

(i) Twenty-six or more vehicles \$ 250.00

(ii) Twenty-five or fewer vehicles \$ 50.00

* * *

§901. Insurable interest required; personal insurance; intentional acts exclusion

A. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person; ~~But~~ however, no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

B. If the beneficiary, assignee, or other payee under any contract made in violation of this Section receives from the insurer any benefits ~~thereunder~~ under the contract accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person ~~so~~ receiving them.

C. "Insurable interest" as used in this Section and in R.S. 22:856 includes only interest as follows:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection; ~~and~~.

* * *

(3) ~~An individual, A person, or entity heretofore or hereafter~~ party to an agreement, contract, or option for the purchase or sale of a business or a firm or immovable property owned by a business or firm, or an interest therein or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such agreement, contract, or option, each individual shareholder of such closed corporation or each individual shareholder of a corporation, individual partner of a partnership, or individual member of a limited liability company owning such property, business, firm, or shares of stock for the purposes of such agreement, contract, or option, only, in addition to any insurable interest which may otherwise exist as to the life of such individual party or individual shareholder.

1 D.(1) No beneficiary, assignee, or other payee under any personal insurance
2 contract shall receive from the insurer any benefits ~~thereunder~~ under the contract
3 accruing upon the death, disablement, or injury of the individual insured when said
4 beneficiary, assignee, or other payee is: either:

5 (a) Held by a final judgment of a court of competent jurisdiction to be
6 criminally responsible for the death, disablement, or injury of the individual insured;
7 ~~or~~.

8 * * *

9 (2) Where such a disqualification exists, the policy proceeds shall be payable
10 to the secondary or contingent beneficiary, unless similarly disqualified, or, if no
11 secondary or contingent beneficiary exists, to the estate of the insured. ~~Provided,~~
12 ~~that nothing~~ Nothing contained ~~herein~~ in this Section shall prohibit payment pursuant
13 to an assignment of the policy proceeds where such payment defrays the cost and
14 expenses of the insured's funeral or expense incurred in connection with medical
15 treatment of the insured. ~~Provided, also, that nothing~~ Nothing contained ~~herein~~ in
16 this Section shall prohibit payment of insurance proceeds pursuant to a facility of
17 payment clause, so long as such payment is not made to a beneficiary, assignee, or
18 other payee disqualified by this Section.

19 * * *

20 §902. Statutory life insurance beneficiaries

21 Notwithstanding any other law or regulation to the contrary, any religious,
22 educational, eleemosynary, charitable, or benevolent institution or undertaking may
23 be named beneficiary in or owner of any policy of life insurance issued by any life
24 insurance company upon the life of any individual. The beneficiaries or owners
25 ~~aforenamed~~ named shall have an insurable interest for the full face of the policy and
26 shall be entitled to collect same. On all policies of life insurance issued before
27 August 21, 1992, by insurers in which any of the ~~aforenamed~~ named beneficiaries
28 or owners shall have been designated beneficiaries in the policies, ~~said the~~

beneficiaries shall have an insurable interest to the full extent of the face of the policy and be entitled to collect same, without penalty or deduction.

* * *

§904. Ante-dating of life insurance policies prohibited

No insurer shall knowingly deliver or issue for delivery in this state any policy or contract of life insurance which purports to be issued or to take effect as of a date more than six months before the application ~~therefor~~ was made, if ~~thereby~~ the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. No ~~agent~~ producer or other representative of an insurer shall in this state prepare, submit, or accept any application for life insurance which bears a date earlier than the date when such application was made by the insured or applicant, if thereby the premium on such policy is reduced as ~~above~~ stated: in this Section. Nothing contained in this Section shall invalidate any contract made in violation of this Section. This Section shall not be construed to prohibit the exchange, alteration, or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater, nor to prohibit the exercise of any conversion privilege contained in any policy or contract.

§905. Written notice required before lapsing life policies

A. No life insurer shall within one year after default in payment of any premium, installment, loan, or interest, declare forfeited or lapsed any policy issued or renewed, and not issued upon the payment of monthly or weekly premiums or for a term of one year or less, for ~~non-payment~~ nonpayment when due of any premium, installment, loan, or interest, or any portion thereof required by the terms of the policy to be paid, unless a written or printed notice ~~stating:~~

(1) ~~The amount of such premium, installment, loan or interest, or portion thereof due on such policy; and~~

(2) ~~The place where it shall be paid and the person to whom the same is payable,~~ shall have been duly addressed and mailed to the owner of the policy and the assignee of the policy if notice of the assignment has been given to the insurer, at the last known post office address of such insured or assignee, postage prepaid by the insurer or any person appointed by it to collect such payment, at least fifteen and not more than forty-five days prior to the date when the same is payable. Such notice shall state both of the following:

(1) The amount of such premium, installment, loan, or interest, or portion thereof due on such policy.

(2) The place where it shall be paid and the person to whom the same is payable.

B. No policy shall ~~in any case~~ be forfeited or declared forfeited or lapsed until the expiration of thirty days after the mailing of such notice. Any payment demanded by ~~such the~~ notice and made within the time limit shall be ~~taken to be full compliance~~ fully compliant with the requirements of the policy in respect to the time of ~~such the~~ payment.

C. The affidavit of any officer, clerk, or ~~agent~~ representative of the insurer or of anyone authorized to mail such notice that the notice required by this ~~section~~ Section has been duly addressed and mailed by the insurer issuing such policy, shall be presumptive evidence that such notice has been duly given. No action shall be maintained to recover under a forfeited policy, unless the same is instituted within two years from the day upon which default was made in paying the premium, installment, interest or portion thereof for which it is claimed that forfeiture ensued.

D. This Section shall not apply to group life insurance policies.

§906. Mortality endowments prohibited

A. No life insurer, ~~(including industrial, service, non-profit~~ nonprofit funeral associations, and fraternal benefit societies), shall be permitted to issue policies,

1 certificates, or contracts to policyholders or members stipulating for the
2 establishment of its policyholders or members into divisions and classes for the
3 purpose of providing for the payment of benefits from special funds created for such
4 purpose to the oldest member of the division and class or to the member of the
5 division and class whose policy has been in force the longest period of time upon the
6 death of the member in such division and class, except as provided in Subsection B
7 of this Section.

8 B. Any life insurer specified in Subsection A of this Section ~~heretofore~~
9 operating on the plan specified in Subsection A of this Section in this state since
10 before October 1, 1948, may continue ~~so to do~~ operate upon condition that such life
11 insurer shall not after that date establish its policyholders or members into divisions
12 or classes other than the divisions or classes actually containing subsisting policies
13 or certificates as of July ~~28th, 28,~~ 28, 1936.

14 §907. Benefits required by domiciliary state; = Louisiana residents entitled to

15 Every policy of life insurance and every benefit contract issued by any alien
16 or foreign insurer to an insured or beneficiary who is a citizen or resident of this state
17 at the time the policy was issued, shall as to all rights, privileges, or duties of the
18 insurer, the insured, or the beneficiary therein, be ~~so~~ interpreted, performed, and
19 enforced as to give accord and extend to such insured or beneficiary named therein
20 and all parties legally represented or claiming through such original parties, the
21 benefit of all legislative or legal enactments of any sort within the state, territory, or
22 country where the insurer issuing such policy or contract is domiciled.

23 * * *

24 §910. Life insurance and annuities; replacement

25 Rules and regulations concerning replacement of life insurance and annuities
26 as provided in R.S. 22:47(1) and (17) shall be promulgated by the commissioner, ~~by~~
27 ~~July 1, 2000.~~

28 * * *

1 §912. Exemption of proceeds; life, endowment, annuity

2 A.(1) The lawful beneficiary, assignee, or payee, including the insured's
3 estate, of a life insurance policy or endowment policy, ~~heretofore or hereafter~~
4 ~~effected~~ shall be entitled to the proceeds and avails of the policy against the creditors
5 and representatives of the insured and of the person effecting the policy or the estate
6 of either, and against the heirs and legatees of either ~~such~~ person, and such proceeds
7 and avails shall also be exempt from all liability for any debt of ~~such~~ the beneficiary,
8 payee, or assignee or estate, existing at the time the proceeds or avails are made
9 available for his own use. For purposes of this Subsection, the proceeds and avails
10 of the policy include the cash surrender value of the policy.

11 (2) The exemption authorized in ~~Subsection (A)~~ Paragraph (1) of this
12 Subsection from seizure under any writ, mandate, or process issued by any court of
13 competent jurisdiction, including any bankruptcy proceedings, shall not apply to that
14 portion of the cash surrender value, or loan value of any life insurance policy,
15 endowment policy, or annuity contract payable upon surrender during the lifetime
16 of the insured or annuitant which exceeds the sum of thirty-five thousand dollars if
17 such policy or contract was issued within nine months of issuance of such writ,
18 mandate, or process or the filing of a voluntary or involuntary bankruptcy proceeding
19 under the United States Code. However, an insurer shall be liable only for such
20 amounts that exceed the thirty-five thousand dollar exemption which are in the
21 insurer's possession at the time the insurer receives, at its home office, written notice
22 by or on behalf of a creditor of claims being made against such value or interest with
23 specification of the amount claimed. The insurer shall have no obligation to
24 determine the validity or the accuracy of the amount of the claim and shall be
25 relieved of further liability of any kind with respect to the monies paid upon ~~such~~
26 request of a creditor. An insurer shall be entitled to be paid by preference and
27 priority over the claim of any ~~such~~ seizing creditor the balance of any bona fide loan
28 to ~~such~~ the insured or owner which is secured by such interest or value in ~~such~~ the
29 policy or contract.

1 B.(1) The lawful beneficiary, assignee, or payee, including the annuitant's
2 estate, of an annuity contract, ~~heretofore or hereafter effected~~, shall be entitled to the
3 proceeds and avails of the contract against the creditors and representatives of the
4 annuitant or the person effecting the contract, or the estate of either, and against the
5 heirs and legatees of either ~~such~~ person, saving the rights of forced heirs, and ~~such~~
6 the proceeds and avails shall also be exempt from all liability for any debt of ~~such~~
7 the beneficiary, payee, or assignee or estate, existing at the time the proceeds or
8 avails are made available for his own use.

9 * * *

10 C. The lawful beneficiary designated in an Education Assistance Account
11 depositor's agreement to receive account funds in the event of the account owner's
12 death, including the account owner's estate, of the funds contained in an Education
13 Assistance Account established pursuant to R.S. 17:3095, ~~heretofore or hereafter~~
14 ~~effected~~, shall be entitled to the proceeds and avails of the Education Assistance
15 Account against the creditors and representatives of the account owner or the person
16 effecting the account, or the estate of either, and against the heirs and legatees of
17 either ~~such~~ person, saving the rights of forced heirs, and ~~such~~ the proceeds and avails
18 shall also be exempt from all liability for any debt of ~~such~~ the beneficiary or estate
19 existing at the time the proceeds and avails are made available for his own use.

20 D.(1) The provisions of Subsections A, B, and C of this Section shall apply:

21 * * *

22 (b) Whether or not the policy, contract, or Education Assistance Account
23 depositor's agreement is made payable to the person whose life is insured, to his
24 estate, or to the estate of an annuitant or to the estate of an Education Assistance
25 Account owner if the beneficiary, assignee or payee shall predecease ~~such~~ the
26 person.

27 * * *

1 E. No person shall be compelled to exercise any rights, powers, options, or
2 privileges under any ~~such~~ policy, contract, or Education Assistance Account
3 depositor's agreement.

4 F. There shall be excepted from the provisions of this Section a debt secured
5 by a pledge of a policy, any rights under ~~such~~ the policy that may have been
6 assigned, and any advance payments made on or against ~~such~~ the policy.

7 §913. Policies payable to estate; effect of renunciation

8 In all policies of life or endowment insurance and in all annuity contracts
9 where the estate of the insured or annuitant is a beneficiary or payee, the widow, or
10 heir, or heirs of the insured or annuitant decedent shall be entitled to the proceeds of
11 ~~such~~ the policies or contracts according to the laws of distribution affecting the
12 succession of the decedent even though they have renounced his succession with the
13 same effect as if ~~said~~ the renunciation had not taken place.

14 §914. Requirements of variable life and variable annuities

15 Except for R.S. 22:951(A)(1), (6), and (7) in the case of a variable annuity
16 contract and R.S. 22:931(A)(1), (7), and (9), R.S. 22:933, 934, 935, and 936 in the
17 case of an individual variable life insurance contract, and R.S. 22:942(3) in the case
18 of a group variable life insurance contract and except as otherwise provided in
19 Subpart C of Part IV of Chapter 2 of this Title, all pertinent provisions of the
20 insurance laws of this state shall apply to separate accounts and contracts relating
21 thereto. Any individual variable life insurance contract, delivered or issued for
22 delivery in this state shall contain grace, reinstatement and nonforfeiture provisions
23 appropriate to ~~such a~~ the contract; any ~~such~~ group variable life insurance contract
24 shall contain a grace provision appropriate to ~~such a~~ the contract and any such
25 variable annuity contract shall contain grace, reinstatement, and nonforfeiture
26 provisions appropriate to ~~such a~~ that contract.

§915. Donations inter vivos of life insurance policies; laws respecting form
inapplicable

* * *

B. This ~~section~~ Section is remedial and retrospective. All donations inter vivos of life insurance policies made on or before July 31, 1968, are valid and effective, whether or not such donations were made in the form prescribed by the Civil Code or by any other laws of this state.

* * *

§931. Life insurance policies; standard provisions

A. No policy of life insurance, except as stated in Subsection C; of this Section, shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which, in the opinion of the commissioner of insurance, are more favorable to the policyholder:

(1) Grace period. A provision that the insured is entitled to a grace period either of thirty days or, at the option of the insurer, of one month within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force, but if a claim arises under the policy during ~~such the~~ period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest, not in excess of six ~~per cent~~ percent per annum, on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(2) Incontestability. A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for ~~non-payment~~ nonpayment of premiums and except for the conditions of the policy relating to military or naval service, or services auxiliary thereto; and at the option of the insurer, provisions relating to benefits in the event of disability, as defined in the policy, and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted.

1 (3) Entire contract. A provision that the policy shall constitute the entire
2 contract between the parties, or if a copy of the application is endorsed upon or
3 attached to the policy when issued, a provision that the policy and the application
4 therefor shall constitute the entire contract between the parties.

5 (4) Misstatement of age. A provision that if the age of the person insured or
6 the age of any other person whose age is considered in determining the premiums has
7 been misstated, any amount payable or benefit accruing under the policy shall be
8 such as the premium would have purchased at the correct age, or ages.

9 (5) ~~A~~ Participating policy. If the policy is a participating policy, a provision
10 that the insurer shall annually ascertain and apportion any divisible surplus accruing
11 on the policy.

12 (6) Nonforfeiture options. A provision in accordance with R.S. 22:934
13 through 936 specifying the options, if any, available under the policy in the event of
14 default in a premium payment; ~~Provided, however, however,~~ the mortality table and
15 rate of interest used as a basis for the calculation of ~~such~~ the options shall be
16 designated by the policy.

17 (7) Policy loan. A provision that when the policy has a loan value, the
18 insurer issuing it shall advance at the option of the person entitled thereto, a sum
19 equal to or less than the cash surrender value of the policy at the end of the current
20 policy year computed in accordance with the provisions of this Subpart, at any time
21 while the policy is in force, on proper assignment or pledge of the policy or with the
22 policy as security at a specified rate of interest not exceeding eight ~~per centum~~
23 percent per annum on policy contracts in effect prior to September 10, 1982, or in
24 accordance with the provisions of R.S. 22:932 on policy contracts in effect on or
25 after September 10, 1982. The interest shall be compounded annually payable in
26 advance. The policy shall also contain a provision that the insurer may deduct from
27 ~~such~~ the loan value, in addition to the indebtedness deducted in determining such
28 value, any unpaid balance of the premium for the current policy year. The policy
29 shall also contain a provision that, if the loan is made or repaid on a date other than

1 the anniversary of the policy, the insurer may collect interest for the portion of the
2 current policy year on a pro rata basis at the rate of interest specified in the policy.

3 The policy may further provide that interest on the loan may be compounded
4 annually and, if not paid when due, it shall be added to the existing loan and shall
5 bear interest at the same rate. The policy may further provide that, if and when the
6 total indebtedness on the policy, including interest due or accrued, equals₂ or exceeds
7 the amount of the loan value thereof at such time, and if at least thirty days prior
8 notice has been given in the manner provided in R.S. 22:905, then the policy shall
9 terminate and become void. The insurer may provide in the policy that the making
10 of any such loan, except when made to pay premiums, may be deferred for a period
11 not to exceed six months after the application therefor has been received by it. The
12 provision shall not apply to term policies of twenty years or less.

13 (8) Nonforfeiture benefits. A provision specifying the basis used in
14 determining ~~non-forfeiture~~ nonforfeiture benefits. In case the proceeds of the policy
15 are payable in installments or as an annuity, a table showing the amounts of the
16 installments or annuity payments.

17 (9) Reinstatement. A provision that the policy will be reinstated at any time
18 within three years from the date of default, unless the cash surrender value has been
19 exhausted by payment or unless the period of extended insurance has expired, upon
20 the application of the insured and the production of evidence of insurability,
21 including good health, satisfactory to the insurer and the payment of all overdue
22 premiums and the payment or reinstatement of any other indebtedness to the insurer
23 upon said policy with the interest at a rate not exceeding six ~~per centum~~ percent per
24 annum compounded annually.

25 (10) Free look period. (a) A provision, prominently printed on the life
26 insurance policy or attached thereto, notifying the insured that ten days are allowed,
27 from the date of his receipt of the policy, to examine its provisions. If the policy is
28 not as explained by the company, its representative, or as understood by the insured,
29 the policy may be surrendered within ~~said~~ the ten-day period, and any premium

advanced by the insured, upon the surrender, shall be immediately returned to him.

The insurer shall have the option of printing, attaching, or endorsing the notice ~~above~~ required in this Subparagraph or a notice of equal prominence which, in the opinion of the commissioner of insurance, is not less favorable to the policyholder. This ~~Paragraph~~ Subparagraph shall not apply to ~~trip~~-travel insurance policies which by their terms are not renewable.

(b) If the policy is delivered by ~~an agent or broker~~, a producer, a receipt shall be signed by the policyholder acknowledging delivery of the policy. The receipt shall contain the policy number and the date the delivery was completed. All delivery receipts required by this Subparagraph shall be retained by the insurer or its ~~agent or the broker~~ producer for two consecutive years. The requirement of this Subparagraph shall not apply to any insurer that markets policies under a home service marketing distribution method and that issues a majority of its policies on a weekly or monthly basis.

(c) If the policy is delivered by mail, it shall be sent by certified mail, return receipt requested, or a certificate of mailing shall be obtained showing the date the policy was mailed to the policyowner. For policy issuances verified by a certificate of mailing, it is presumed that the policy is received by the policyowner ten days from the date of mailing. The receipts and the certificate of mailing described in this Section shall be retained by the insurer or ~~agent~~ producer for ~~three~~ two years.

(11) Lump sum payment. A provision which allows election by the beneficiary of an option to receive benefits in the form of a lump sum payment. This Paragraph shall not apply to policies of industrial life insurance or service insurance.

B. Exclusions and restrictions. No policy of life insurance delivered or issued for delivery in this state shall contain any provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except the following provisions, or provisions which in the opinion of the commissioner of insurance are substantially the same or more favorable to policyholders:

1 (1) Provisions excluding or restricting coverage in the event of death
2 occurring:

3 ~~(1)~~ (a) As a result of war declared or undeclared under conditions specified
4 in the policy.

5 ~~(2)~~ (b) While either in:

6 ~~(a)~~ (i) ~~the~~ The military, naval, or air forces of any country at war, declared or
7 undeclared, ~~or,~~

8 ~~(b)~~ (ii) ~~any~~ Any ambulance, medical, hospital, or civilian noncombatant unit
9 serving with such forces, either while serving with or within six months after
10 termination of service in such forces or units.

11 ~~(3)~~ (c) As a result of self-destruction while sane or insane within two years
12 from the date of issue of the policy.

13 ~~(4)~~ (d) As a result of aviation under conditions specified in the policy.

14 ~~(5)~~ (e) Within two years from the date of issue of the policy as a result of a
15 specified hazardous occupation or occupations, or while the insured is residing in a
16 specified foreign country or countries.

17 (2) In the event of death as to which there is an exclusion or restriction
18 pursuant to ~~Paragraphs (1), (3), (4), or (5)~~ Subparagraph (1)(a), (c), (d), or (e) of this
19 Subsection, the insurer shall pay an amount not less than the reserve on the face
20 amount of the policy, together with the reserve for any paid-up additions thereto, and
21 any dividends standing to the credit of the policy, less any indebtedness to insurer
22 on the policy, including interest due or accrued.

23 (3) In the event of death as to which there is an exclusion or restriction
24 pursuant to ~~Paragraph (2)~~ Subparagraph (1)(b) of this Subsection, the insurer shall
25 pay the greater of:

26 ~~(a) the~~ (i) The amount specified in ~~the preceding paragraph, or Paragraph (2)~~
27 of this Subsection.

(b) ~~the~~ (ii) The amount of the gross premiums charged on the policy less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the insurer on the policy, including interest due or accrued.

(4) A clause in any policy of life insurance, issued under this Code, providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions which exclude or restrict coverage as provided in this Subsection, whether or not such restrictions or exclusions are excepted in such clause; nor upon a provision regarding misstatement of age as provided in Paragraph (4) of Subsection A of this Section, whether or not such provision is excepted in such clause.

(5) Nothing contained ~~herein~~ in this Subsection shall apply to any provision in a life insurance policy for additional benefits in the event of death by accident or accidental means.

C. Any of the ~~foregoing~~ provisions or portions thereof of this Section not applicable to single premium or ~~non-participating~~ nonparticipating or term policies; shall to that extent not be incorporated therein. The provisions of this Section shall not apply to policies of industrial life insurance, service insurance, or to policies of group life insurance.

~~D. Every life insurance policy delivered or issued for delivery in this state, other than policies of industrial life insurance or service insurance, shall allow election by the beneficiary of an option to receive benefits in the form of a lump sum payment.~~

§932. Maximum rate of interest on policy loans

* * *

B. The rate of interest charged on a policy loan made under Paragraph (2) of Subsection A of this Section shall not exceed the higher of: ~~the following:~~

(1) The published monthly average for the calendar month ending two months prior to the date on which the rate is determined;~~or,~~

* * *

D. The maximum rate for each policy referred to in Paragraph (2) of Subsection A of this Section shall be determined at regular intervals at least once every twelve months, but not more frequently than once in any ~~three-month~~ three-month period. At the intervals specified in the policy:

* * *

(2) The rate being charged shall be reduced whenever such reduction, as determined under Subsection B of this Section, would decrease that rate by one-half of one percent ~~of~~ or more per annum.

E. The insurer shall, at the time a cash loan is made, notify the policyholder of the initial rate of interest on the loan, and shall notify the policyholder of the initial rate of interest on the premium loan as soon as it is reasonably practical to do so after making the initial loan. Such notice need not be given to the policyholder when a further premium loan is added except as otherwise provided ~~below~~; in this Subsection. The insurer shall send reasonable advance notice of any increase in the rate to policyholders with loans, and include in the notices required ~~above~~; in this Subsection, the substance of the pertinent provisions of Subsections A and C of this Section.

* * *

§934. Policies to contain ~~non-forfeiture~~ nonforfeiture benefits

Every ~~contract or policy~~ of life or endowment insurance policy, (other than a term life policy for twenty years or less and ~~policies~~ an industrial life insurance policy with coverage of one thousand two hundred fifty dollars or less ~~issued as industrial policies under the provisions of~~ pursuant to R.S. 22:146), issued on the life of a resident of this state or delivered within this state by any insurer, on or after January 1, 1937, unless the company ~~elects to take advantage of the~~ exercises its option provided in R.S. 22:936(H), shall ~~contain a stipulation~~ require that after three

1 full annual premiums have been paid, ~~thereon it shall not lapse or become void or be~~
2 ~~forfeited for non-payment of any premium thereafter, or of any note therefor, or of~~
3 ~~any loan on such policy, or of any interest on such note or loan, the policy shall not~~
4 ~~be forfeited without value for the nonpayment of any subsequent premiums or for~~
5 ~~policy loan indebtedness or the interest thereon~~ except as provided in R.S. 22:935.

6 §935. Paid-up, extended insurance and cash value

7 ~~No such policy of Every life or endowment insurance policy, (other than a~~
8 ~~term life policy for twenty years or less and an policies of industrial life insurance~~
9 ~~policy with coverage of one thousand two hundred fifty dollars or less, pursuant to~~
10 ~~the provisions of R.S. 22:146), issued by any legal reserve life insurer on or after~~
11 ~~January 1, 1907, by a legal reserve life insurance company, after being in force for~~
12 ~~three full years, shall not be forfeited without value for the nonpayment of any~~
13 ~~subsequent premiums or for policy loan indebtedness or the interest thereon, unless~~
14 ~~the company elects to take advantage of the exercises its option provided in R.S.~~
15 ~~22:936(H); after being in force three full years shall by its terms lapse or become~~
16 ~~forfeited by the nonpayment of any premium, or any note therefor, or of any loan on~~
17 ~~such policy, or of any interest on such note or loan. The reserve on such policy~~
18 ~~computed according to the standard adopted by said insurer, together with the value~~
19 ~~of any dividend additions upon said policy after deducting any indebtedness to the~~
20 ~~company and after deducting one-fifth of the said entire reserve or the sum of two~~
21 ~~and fifty-one hundredths dollars for each one hundred dollars of the face of said~~
22 ~~policy if said sum shall be more than the said one-fifth, shall upon demand, with~~
23 ~~surrender of the policy, be applied as a surrender value as agreed upon in the policy;~~
24 ~~provided that, if no other option expressed in the policy be availed of by the owner~~
25 ~~thereof, the policy shall provide for said value to be applied to the automatic option~~
26 ~~shown in the policy which automatic option shall be one of the following, either to~~
27 ~~purchase upon the same life, at the attained age, paid-up insurance, payable at the~~
28 ~~same time, and under the same conditions, except as to the payment of premiums,~~
29 ~~as the original policy, or to continue the insurance in force at its full amount,~~

1 including any outstanding dividend additions, less any outstanding indebtedness on
2 the policy, so long as such surrender value will purchase nonparticipating temporary
3 insurance at net single premium rates by the standard adopted by the insurer, at the
4 age of the insured at the time of lapse or forfeiture, provided that in case of any
5 endowment policy, if the sum applicable to the purchase of temporary insurance be
6 more than sufficient to continue the insurance to the end of the endowment term
7 named in the policy, the excess shall be used to purchase, in the same manner, pure
8 endowment insurance payable at the end of the endowment term named in the policy
9 on the conditions on which the original policy was issued; and provided further that,
10 in calculating the The nonforfeiture value per hundred dollars of coverage under
11 said policy is determined as the sum of the legal reserve and accumulated dividends,
12 less any policy loan indebtedness and a surrender charge equal to the greater of one-
13 fifth of the legal reserve or two dollars and fifty cents. Unless the policy owner
14 elects one of the other nonforfeiture options within the policy, the nonforfeiture
15 value as determined herein shall be applied towards the policy's automatic
16 nonforfeiture option. The automatic nonforfeiture option shall be the purchase of
17 paid up life or endowment insurance on the same life at the age at the time of
18 forfeiture and under the same terms, except as to the payment of premiums, as the
19 original policy, or to continue the insurance in force at its full amount, including the
20 amount of accumulated dividends, less any existing policy loan indebtedness;
21 however, such surrender value will purchase nonparticipating temporary insurance
22 at net single premium rates using the standard as prescribed by the insurer, at the age
23 at the time of forfeiture, provided that in the case of an endowment policy, if the sum
24 needed to purchase temporary insurance is more than that needed to continue the
25 insurance to the end of the policy's endowment term, the excess shall be used to
26 purchase pure endowment insurance payable at the end of the policy's endowment
27 term using the purchase rates as prescribed by the insurer. When determining the net
28 single premium rates for any temporary insurance, the insurer may use one hundred
29 thirty percent of the rate of reserve mortality assumption adopted as a basis for

1 ~~reserve for the policy as the mortality rate.~~ This further provision shall not apply to
2 any mortality table constructed on the basis of insurance ~~companies~~ company
3 experience prior to 1900. ~~Provided, further, that any~~ Any attempted waiver of the
4 provisions of this ~~paragraph~~ Paragraph in any application, policy, or otherwise shall
5 be void, and ~~that~~ any value allowed in lieu thereof shall be at least equal to the net
6 value of the temporary ~~and or~~ pure endowment insurance as provided herein.
7 ~~provided for.~~ The term of temporary insurance ~~herein~~ provided herein ~~for~~ shall
8 include the period of grace, if any.

9 §936. Standard nonforfeiture law for life insurance

10 A.(1) This Section shall be known as the "Standard Nonforfeiture Law for
11 Life Insurance". In the case of policies issued on and after the effective date of this
12 Section, as defined in Subsection L ~~hereof,~~ of this Section, no policy of life
13 insurance, except as stated in Subsection K of this Section shall be delivered or
14 issued for delivery in this state unless it shall contain in substance the following
15 provisions, or corresponding provisions which in the opinion of the commissioner
16 are at least as favorable to the defaulting or surrendering policyholder as are the
17 minimum requirements hereinafter specified ~~and are essentially in compliance with~~
18 in Subsection J of this Section:

19 * * *

20 (2)(a) Any of the ~~foregoing~~ provisions, ~~or portions thereof,~~ of Paragraph (1)
21 of this Subsection not applicable ~~by reason of~~ because of the structure of the plan of
22 insurance may, to the extent inapplicable, be omitted from the policy.

23 (b) Notwithstanding any other provisions to the contrary, the insurer shall
24 reserve the right to defer the payment of any cash surrender value for a period not to
25 exceed six months after demand therefor with surrender of the policy.
26 Notwithstanding ~~the above~~ this provision, if payment is not made within thirty days
27 after demand therefor with surrender of the policy, the insurer shall pay, in addition
28 to the cash surrender value, interest on the cash surrender value at the judicial
29 interest rate set by ~~Louisiana Civil Code Article 2924~~ R.S. 9:3500 commencing from

1 the date of surrender until the cash surrender value is paid in full within the six-
2 month period.

3 B.(1) Any cash surrender value available under the policy in the event of
4 default in a premium payment due on any policy anniversary, whether or not
5 required by Subsection A, of this Section, shall be an amount not less than the
6 excess, if any, of the present value on such anniversary of the future guaranteed
7 benefits which would have been provided for by the policy, including any existing
8 paid-up additions, if there had been no default, over the sum of the then present value
9 of the adjusted premiums as defined in Subsections D, E, F, and G of this Section
10 corresponding to premiums which would have fallen due on and after such
11 anniversary, and the amount of any indebtedness to the insurer on the policy.

12 (2) ~~Provided, however, that~~ However, for any policy issued on or after the
13 effective date of Subsection G of this Section as defined therein, which provides
14 supplemental life insurance or annuity benefits at the option of the insured and for
15 an identifiable additional premium by rider or supplemental policy provision, the
16 cash surrender value referred to in ~~the first paragraph~~ Paragraph (1) of this
17 Subsection shall be an amount not less than the sum of the cash surrender value as
18 defined in such ~~paragraph~~ Paragraph for an otherwise similar policy issued at the
19 same age without such rider or supplemental policy provision and the cash surrender
20 value as defined in such ~~paragraph~~ Paragraph for a policy which provides only the
21 benefits otherwise provided by such rider or supplemental policy provision.

22 (3) ~~Provided, further, that~~ However, for any family policy issued on or after
23 the effective date of Subsection G of this Section as defined therein, which defines
24 a primary insured and provides term insurance on the life of the spouse of the
25 primary, insured expiring before the spouse's age of seventy-one; years, the cash
26 surrender value referred to in ~~the first paragraph~~ Paragraph (1) of this Subsection
27 shall be an amount not less than the sum of the cash surrender value as defined in
28 such ~~paragraph~~ Paragraph for an otherwise similar policy issued at the same age
29 without such term insurance on the life of the spouse and the cash surrender value

as defined in such ~~paragraph~~ Paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

(4) Any cash surrender value available within thirty days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by Subsection A; of this Section, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

* * *

D.(1)(a) This Subsection shall not apply to policies issued on or after the effective date of Subsection G as defined therein. Except as provided in ~~the third paragraph~~ Paragraph (3) of this Subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on substandard policies, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of: all of the following:

~~(a) the~~ (i) The then present value of the future guaranteed benefits provided for by the policy;

~~(b) two~~ (ii) Two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;

~~(c) forty~~ (iii) Forty percent of the adjusted premium for the first policy year; and.

~~(d) twenty-five~~ (iv) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(b) In applying the percentages specified in ~~(c) Items (a)(iii) and (d) above,~~
(iv) of this Paragraph, no adjusted premium shall be deemed to exceed four percent
of the amount of insurance or uniform amount equivalent thereto. The date of issue
of a policy for the purpose of this Subsection shall be the date from which the first
policy anniversary is computed.

(2) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this Subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy: ~~Provided, however, that~~ however, in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

* * *

(4) Except as otherwise provided in Subsections E, ~~and F,~~ and G of this Section, all adjusted premiums and present values referred to in this Section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table; provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance, as defined in R.S. 22:141, shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; ~~Provided, however, that~~ however, in calculating the present value of any paid-up term

1 insurance with accompanying pure endowment, if any, offered as a nonforfeiture
2 benefit, the rates of mortality assumed may be not more than one hundred ~~and~~ thirty
3 percent of the rates of mortality according to such applicable table; ~~Provided,~~
4 ~~further, that~~ however, for insurance issued on a substandard basis, the calculation of
5 any such adjusted premiums and present values may be based on such other table of
6 mortality as may be specified by the insurer and approved by the commissioner.

7 E.(1) This Subsection shall not apply to ordinary policies issued on or after
8 the effective date of Subsection G of this Section as defined therein. In the case of
9 ordinary policies issued on or after the effective date of this Subsection as defined
10 herein and in Subsection L; of this Section, all adjusted premiums and present values
11 referred to in this Section shall be calculated on the basis of the Commissioner's
12 1958 Standard Ordinary Mortality Table and the rate of interest specified in the
13 policy for calculating cash surrender values and paid-up nonforfeiture benefits
14 provided that such rate of interest shall not exceed four percent per annum for
15 policies issued prior to September 7, 1979, and such rate of interest shall not exceed
16 five and one-half percent per annum for policies issued on or after September 7,
17 1979; ~~and provided that~~ However, for any category of ordinary insurance issued on
18 female risks, adjusted premiums, and present values may be calculated according to
19 an age not more than six years younger than the actual age of the insured; ~~Provided,~~
20 ~~however, that~~ however, in calculating the present value of any paid-up term
21 insurance with accompanying pure endowment, if any, offered as a nonforfeiture
22 benefit, the rates of mortality assumed may be not more than those shown in the
23 Commissioner's 1958 Extended Term Insurance Table. ~~Provided, further, that~~
24 However, for insurance issued on a substandard basis, the calculation of any such
25 adjusted premiums, and present values may be based on such other table of mortality
26 as may be specified by the insurer and approved by the commissioner.

27 (2) ~~Any~~ After July 27, 1960, any insurer may file with the commissioner a
28 written notice of its election to comply with the provisions of this Subsection after
29 a specified date with respect to the policies specified in the notice. After the filing

1 of such notice, then upon such specified date which shall be the effective date of this
2 Subsection for such insurer with respect to such policies, this Subsection shall
3 become effective with respect to such policies specified in such notice and thereafter
4 issued by such insurer.

5 F.(1) This Subsection shall not apply to industrial policies issued on or after
6 the effective date of Subsection G of this Section as defined therein. In the case of
7 industrial policies issued on or after the effective date of this Subsection F as defined
8 herein and in Subsection L of this Section, all adjusted premiums and present values
9 referred to in this Section shall be calculated on the basis of the Commissioner's
10 1961 Standard Industrial Mortality Table and the rate of interest specified in the
11 policy for calculating cash surrender values and paid-up nonforfeiture benefits, but
12 such rate of interest shall not exceed four percent per annum for policies issued prior
13 to September 7, 1979, and such a rate of interest shall not exceed five and one-half
14 percent per annum for policies issued on or after September 7, 1979. In addition, in
15 calculating the present value of any paid-up term insurance with accompanying pure
16 endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed
17 may be not more than those shown in the Commissioner's 1961 Industrial Extended
18 Term Insurance Table; ~~Further, however,~~ for insurance issued on a substandard
19 basis, the calculations of any such adjusted premiums and present values may be
20 based on such other table of mortality as may be specified by the insurer and
21 approved by the commissioner.

22 * * *

23 G.(1)(a) This Subsection shall apply to all policies issued on or after the
24 effective date of this Subsection as defined herein. Except as provided in Paragraph
25 (7) of this Subsection, the adjusted premiums for any policy shall be calculated on
26 an annual basis and shall be such uniform percentage of the respective premiums
27 specified in the policy for each policy year, excluding amounts payable as extra
28 premiums to cover impairments or special hazards and also excluding any uniform
29 annual contract charge or policy fee specified in the policy in a statement of the

method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of the following three factors:

~~(a) the~~ (i) The then present value of the future guaranteed benefits provided for by the policy;

~~(b) one~~ (ii) One percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years;

~~(c) one~~ (iii) One hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined.

~~Provided, however, that~~ (b) However, in applying the percentage specified in ~~(c) above~~ Item (a)(iii) of this Paragraph, no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this Subsection shall be the date as of which the rated age of the insured is determined.

* * *

(4) Except as otherwise provided in Paragraph ~~7~~ (7) of this Subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums of all such future adjusted premiums shall be equal to the excess of (A) the sum of (a) the then present value of the then future guaranteed benefits provided for by the policy and (b) the additional

1 expense allowance, if any, over (B) the then cash surrender value, if any, or present
2 value of any paid-up nonforfeiture benefit under the policy.

3 * * *

4 (8) All adjusted premiums and present values referred to in this Section shall
5 be calculated for all policies of ordinary insurance on the basis of the
6 Commissioner's 1980 Standard Ordinary Mortality Table or at the election of the
7 insurer for any one or more specified plans of life insurance, the Commissioner's
8 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;
9 shall be calculated for all policies of industrial insurance on the basis of the
10 Commissioner's 1961 Standard Industrial Mortality Table; and shall be calculated
11 for all policies issued in a particular calendar year on the basis of a rate of interest
12 not exceeding the nonforfeiture interest rate as defined in this Subsection for policies
13 issued in that calendar year; ~~Provided, however, that:~~ however,

14 * * *

15 (b) Under any paid-up nonforfeiture benefit including any paid-up dividend
16 additions, any cash surrender value available, whether or not required by Subsection
17 A; of this Section shall be calculated on the basis of the mortality table and rate of
18 interest used in determining the amount of such paid-up nonforfeiture benefit and
19 paid-up dividend additions, if any.

20 * * *

21 (d) In calculating the present value of any paid-up term life insurance with
22 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates
23 of mortality assumed may be not more than those shown in the Commissioner's 1980
24 Extended Term Insurance Table for policies of ordinary insurance and not more than
25 the Commissioner's 1961 Industrial Extended Term Insurance Table for policies of
26 industrial life insurance.

27 (e) For life insurance issued on a substandard basis, the calculation of any
28 such adjusted premiums and present values may be based on appropriate
29 modifications of the aforementioned tables.

(f) Any ordinary life mortality tables, adopted after 1980, by the National Association of Insurance Commissioners that are approved by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.

(g) Any industrial life mortality tables adopted after 1980, by the National Association of Insurance Commissioners that are approved by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table.

* * *

I.(1) Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in Subsections B, ~~C, D, E, F,~~ and through G of this Section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the amounts used to provide such additions. Notwithstanding the provisions of Subsection B of this Section, additional benefits payable in any of the following shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this Section:

(a) In the event of death or dismemberment by accident or accidental means;~~;~~

(b) In the event of total and permanent disability;~~;~~

(c) As reversionary annuity or deferred reversionary annuity benefits;~~;~~

1 (d) As term insurance benefits, whether or not provided by a rider or
2 supplemental policy provision to which, if issued as a separate policy, this Section
3 shall not apply.

4 (e) As term insurance on the life of a child or on the lives of children
5 provided in a policy on the life of a parent of the child, if such term insurance expires
6 before the child's age is twenty-six, is uniform in amount after the child's age is one,
7 and has not become paid-up by reason of the death of a parent of the child; ~~and~~.

8 (f) As other policy benefits additional to life insurance and endowment
9 benefits and premiums for all such additional benefits.

10 * * *

11 J.(1) ~~This Subsection in addition to all other~~ All applicable Subsections of
12 this Section shall apply to all policies issued on or after January 1, 1986. Any cash
13 surrender value available under the policy in the event of default in a premium
14 payment due on any policy anniversary shall be in an amount which does not differ
15 by more than two-tenths of one percent of either the amount of insurance, if the
16 insurance be uniform in amount, or the average amount of insurance at the beginning
17 of each of the first ten policy years, from the sum of: (a) the greater of zero and the
18 basic cash value hereinafter specified and (b) the present value of any existing paid-
19 up additions less the amount of any indebtedness to the insurer under the policy.

20 (2) The basic cash value shall be equal to the present value, on such
21 anniversary, of the future guaranteed benefits which would have been provided for
22 by the policy, excluding any existing paid-up additions and before deduction of any
23 indebtedness to the insurer, if there had been no default, less the then present value
24 of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which
25 would have fallen due on and after such anniversary; ~~Provided, however, that~~
26 however, the effects on the basic cash value of supplemental life insurance or annuity
27 benefits or of family coverage, as described in Subsection B or Subsection D; of this
28 Section, whichever is applicable, shall be the same as are the effects specified in such

1 Subsection B or Subsection D of this Section, whichever is applicable on the cash
2 surrender values defined in that Subsection.

3 (3)(a) The nonforfeiture factor for each policy year shall be an amount equal
4 to a percentage of the adjusted premium for the policy year, as defined in Subsection
5 D or Subsection G, of this Section, whichever is applicable. Except as is required
6 by ~~the next succeeding sentence~~ Subparagraph (b) of this Paragraph, such percentage
7 shall be the same percentage for each policy year between the second policy
8 anniversary and the later of the fifth policy anniversary and that of the first policy
9 anniversary at which there is available under the policy a cash surrender value in an
10 amount, before including any paid-up additions and before deducting any
11 indebtedness, of at least two tenths of one percent of either the amount of insurance,
12 if the insurance be uniform in amount, or the average amount of insurance at the
13 beginning of each of the first ten policy years.

14 (b) No percentage after the later of the two policy anniversaries specified in
15 ~~the preceding sentence~~ Subparagraph (a) of this Paragraph shall apply to fewer than
16 five consecutive policy years; ~~Provided, that~~ however, no basic cash value may be
17 less than the value which would be obtained if the adjusted premiums for the policy,
18 as defined in ~~Subsections~~ Subsection D or G, of this Section, whichever is
19 applicable, were substituted for the nonforfeiture factors in the calculation of the
20 basic cash value.

21 * * *

22 (5) Any cash surrender value available other than in the event of default in
23 a premium payment due on a policy anniversary, and the amount of any paid-up
24 nonforfeiture benefit available under the policy in the event of default in a premium
25 payment shall be determined in manners consistent with the manners specified for
26 determining the analogous minimum amounts in Subsections A, B, C, G, and I of
27 this Section. The amounts of any cash surrender values and of any paid-up
28 nonforfeiture benefits granted in connection with additional benefits such as those

1 listed as ~~items~~ Subparagraphs (a) through (f) ~~in of~~ Subsection I of this Section shall
2 conform with the principles of this Subsection.

3 * * *

4 K.(1) This Section shall not apply to any of the following:

5 * * *

6 (g) Policy, which provides no guaranteed nonforfeiture or endowment
7 benefits, for which no cash surrender value, if any, or present value of any paid-up
8 nonforfeiture benefit, at the beginning of any policy year, calculated as specified in
9 Subsections B, ~~C, D, E, F,~~ and through G of this Section, exceeds two and one-half
10 percent of the amount of insurance at the beginning of the same policy year.

11 (h) Policy which shall be delivered outside this state through ~~an agent~~ a
12 producer or other representative of the insurer issuing the policy.

13 * * *

14 §941. Group life insurance defined; eligibility; payment of premiums; limits and
15 coverage

16 * * *

17 B. Each policy of group life insurance may cover one or more employees or
18 members at date of issue: as follows:

19 * * *

20 (6) Any policy issued under this ~~section~~ Section may provide for the
21 readjustment of the rate of premium based on the experience ~~thereunder~~ at the end
22 of the first year or of any subsequent year of insurance ~~thereunder~~ and such
23 readjustment may be made retroactive only for such policy year. Any refund on any
24 plan for readjustment of the rate of premium based on the experience of the group
25 policies hereafter issued, and any dividend paid under such policies may be used to
26 reduce the employer's share of the cost of coverage, except that if the aggregate
27 refunds or dividends under such group policy and in any other group policy or
28 contract issued to the policyholder exceed the aggregate contributions of the

1 employer toward the cost of the coverages, such excess shall be applied by the
2 policyholder for the sole benefit of insured employees.

3 * * *

4 §942. Standard provisions for group life policies

5 Each policy of group life insurance as defined in R.S. 22:941 shall contain
6 in substance the following provisions or, at the option of the insurer, provisions
7 which in the opinion of the commissioner of insurance are not less favorable to the
8 policyholder; However, Paragraphs (6) through (12) of this Section shall not apply
9 to policies described in ~~Paragraph (3) of Subsection A of R.S. 22:941~~ R.S.
10 22:941(A)(3), except that, where policies are issued pursuant to ~~said~~ that Paragraph,
11 the insurer shall issue to the policyholder for delivery to the person whose life is
12 insured an individual certificate setting forth the insurance protection afforded, to
13 whom it is payable, information relating to notice and proof of loss, and that the
14 standard provisions required for individual life insurance policies shall not apply to
15 group life insurance policies;

16 (1) The contract: A provision that a copy of the application, if any, of the
17 policyholder shall be attached to the policy when issued, that all statements made by
18 the policyholder or by the persons insured shall be deemed representations and not
19 warranties, and that no statement made by any person insured shall be used in any
20 contest unless a copy of the instrument containing the statement is or has been
21 ~~furnished~~ provided to such person or to his beneficiary.

22 * * *

23 (10) Conversion on termination of eligibility: A provision that if the
24 insurance, or any portion of it, on an individual covered under the policy ceases
25 because of termination of employment or of membership in the class or classes
26 eligible for coverage under the policy, such individual shall be entitled to have issued
27 to him by the insurer, without evidence of insurability, an individual policy of life
28 insurance without disability or other supplementary benefits, provided application

1 for the individual policy shall be made and the first premium paid to the insurer
2 within thirty-one days after such termination. It is further provided that:

3 * * *

4 (b) The individual policy shall be in an amount not in any event in excess of
5 the amount of life insurance which ceases because of such termination nor less than
6 one thousand dollars unless a smaller amount of coverage was provided for such
7 individual under the group policy, provided that any amount of insurance which
8 matures on the date of such termination or has matured prior ~~thereto~~ under the group
9 policy as an endowment payable to the individual insured, whether in one sum or
10 installments or in the form of an annuity, shall not, for the purposes of this provision,
11 be included in the amount which is considered to cease because of such termination.

12 * * *

13 (11) Conversion on termination of policy: A provision that if the group
14 policy terminates or is amended so as to terminate the insurance of any class of
15 insured individuals, every individual insured ~~thereunder~~ at the date of such
16 termination whose insurance terminates and who has been so insured for at least five
17 years prior to such termination date shall be entitled to have issued to him by the
18 insurer an individual policy of life insurance, subject to the same conditions and
19 limitations as are provided by Paragraph (10) of this Section, except that the group
20 policy may provide that the amount of such individual policy shall not exceed the
21 smaller of (a) the amount of the individual's life insurance protection ceasing because
22 of the termination or amendment of the group policy, less the amount of life
23 insurance for which he is or becomes eligible under any group policy issued or
24 reinstated by the same or another insurer within thirty-one days of such termination
25 and (b) two thousand dollars.

26 * * *

§943. Group life insurance; exclusions; restrictions; contestability

* * *

D. In the event of death as to which there is an exclusion or restriction not prohibited by Paragraph (A)(2) of this Section or is allowed by the commissioner, the insurer shall pay the greater of:

* * *

(2) The amount of the gross premiums charged on the policy less dividends paid in cash or used in the payment of premiums ~~thereon~~ and less any indebtedness to the insurer on the policy, including interest due or accrued.

* * *

§944. Exemption of proceeds; group life

A. A policy of group life insurance or the proceeds ~~thereof~~ payable to the individual insured or to the beneficiary, ~~thereunder~~, shall not be liable, either before or after payment, to be applied to any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds, ~~thereof~~, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts.

* * *

§951. Annuities and pure endowment contracts; standard provisions

A. No annuity or pure endowment contract except a reversionary annuity otherwise called a survivorship annuity and except a group annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner of insurance are more favorable to the holders of such contracts:

(1) Grace period: A provision that there shall be a period of grace, either of thirty days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in full force; but if a claim arises under the contract on account of

1 death during the said period of grace before the overdue payment to the insurer or
2 the deferred payments of the current contract year, if any, are made, the amount of
3 such payments, with interest, not in excess of six ~~percent~~ percent per annum, on any
4 overdue payments, may be deducted from any amount payable under the contract in
5 settlement.

6 (2) Incontestability: If any statements, other than those relating to age, sex,
7 and identity, are required as a condition of issuing the contract, a provision that the
8 contract shall be incontestable after it has been in force during the lifetime of the
9 person or each of the persons as to whom such statements are required, for a period
10 of two years from its date of issue, except where stipulated payments to the insurer
11 have not been made, and except for violation of the conditions, if any, of the contract
12 relating to military or naval service; and at the option of the insurer issuing the same,
13 such contract may also except provisions relative to benefits in the event of total and
14 permanent disability and provisions which grant insurance specifically against death
15 by accident or accidental means.

16 (3) Entire contract: A provision that the contract shall constitute the entire
17 contract between the parties, or if a copy of the application is endorsed upon or
18 attached to the contract when issued, a provision that the contract and the application
19 therefor shall constitute the entire contract between the parties.

20 (4) Misstatement of age or sex: A provision that if the age or sex of the
21 person or persons upon whose life or lives the contract is made, or of any of them,
22 has been misstated, the amount payable or benefit accruing under the contract, shall
23 be such as the stipulated payments to the insurer would have purchased according
24 to the correct age or sex; and that if the insurer shall make any overpayments on
25 account of any such misstatement, the amount thereof, with interest at a rate to be
26 specified in the contract but not exceeding six ~~per centum~~ percent per annum, shall
27 be charged against the current or next succeeding payment or payments to be made
28 by the insurer under the contract.

1 (5) ~~★~~ Participating policy: If the policy is a participating policy, a provision
2 that the insurer shall annually ascertain and apportion any divisible surplus accruing
3 on the contract.

4 (6) Nonforfeiture options: A provision specifying the options available in
5 the event of default in a stipulated payment after three full years stipulated payments
6 have been made, together with a table showing, in figures, the options so available
7 during each of the first twenty years after the issuance of the contract or for the term
8 of the stipulated payments, if that be less than twenty years.

9 (7) Reinstatement: A provision that at any time within one year from the
10 date of default in making stipulated payments to the insurer, during the life of the
11 annuitant and unless the cash surrender value, if any, has been paid, the contract will
12 be reinstated, on the application of the person entitled thereto pursuant to the
13 provisions of the contract, upon payment to the insurer of all overdue stipulated
14 payments and of all indebtedness to the insurer on the contract with interest on both
15 at a rate to be specified in the contract but not to exceed six ~~per cent~~ percent per
16 annum, compounded annually; and in cases where applicable the contract may also
17 contain a provision requiring, as a condition of reinstatement, evidence of
18 insurability, including good health, satisfactory to the insurer.

19 (8)(a) Free look period: A provision, prominently printed on the contract or
20 attached thereto, notifying the insured that ten days are allowed, from the date of
21 actual receipt of the contract, to examine its provisions. If the contract is not as
22 explained by the company, its representative, or as understood by the insured, the
23 contract may be surrendered within said ten-day period, and any premium advanced
24 by the insured, upon the surrender, shall be immediately returned to him. The
25 insurer shall have the option of printing, attaching, or endorsing the notice above
26 required or a notice of equal prominence which, in the opinion of the commissioner
27 of insurance, is not less favorable to the contract holder.

28 (b) If the policy is delivered by ~~an agent or broker~~, a producer, a receipt shall
29 be signed by the policyholder acknowledging delivery of the policy. The receipt shall

1 contain the policy number and the date the delivery was completed. The delivery
2 receipts required by this Subparagraph shall be retained by the insurer, ~~its agent, or~~
3 ~~the broker~~ or its producer for two consecutive years. The requirement of this
4 Subparagraph shall not apply to any insurer that markets policies under a home
5 service marketing distribution method and that issues a majority of its policies on a
6 weekly or monthly basis.

7 (c) If the policy is delivered by mail, it shall be sent by certified mail, return
8 receipt requested, or a certificate of mailing shall be obtained showing the date the
9 policy was mailed to the policyowner. For policy issuances verified by a certificate
10 of mailing, it is presumed that the policy is received by the policyowner ten days
11 from the date of mailing. The receipts and the certificate of mailing described in this
12 Section shall be retained by the ~~insurer or agent~~ producer for ~~three~~ two years.

13 * * *

14 §952. Standard nonforfeiture law for individual deferred annuities

15 A.

16 * * *

17 (2) This Section shall not apply to any charitable gift annuity entered into on
18 behalf of an organization qualified with the United States Internal Revenue Service
19 for an exemption from federal income tax under Section 501(c)(3) of the Internal
20 Revenue Code, reinsurance, group annuity purchases under a retirement plan or plan
21 of deferred compensation established or maintained by an employer, ~~(including a~~
22 ~~partnership or sole proprietorship)~~, or by an employee organization, or by both, other
23 than a plan providing individual retirement accounts or individual retirement
24 annuities under Section 408 of the Internal Revenue Code, as now or hereafter
25 amended, premium deposit fund, variable annuity, investment annuity, immediate
26 annuity, any deferred annuity contract after annuity payments have commenced, or
27 reversionary annuity, nor to any contract which shall be delivered outside this state

1 through ~~an agent~~ a producer or other representative of the company issuing the
2 contract.

3 * * *

4 B. In the case of contracts issued on or after the operative date of this Section
5 as defined in Subsection K; of this Section, no contract of annuity, except as stated
6 in Subsection A; of this Section, shall be delivered or issued for delivery in this state
7 unless it contains in substance the following provisions, or corresponding provisions
8 which in the opinion of the commissioner are at least as favorable to the contract-
9 holder, upon cessation of payment of considerations under the contract.;

10 * * *

11 (4)(a) A statement that any paid-up annuity, cash surrender or death benefits
12 that may be available under the contract are not less than the minimum benefits
13 required by any statute of the state in which the contract is delivered and an
14 explanation of the manner in which such benefits are altered by the existence of any
15 additional amounts credited by the company to the contract, any indebtedness to the
16 company on the contract, or any prior withdrawals from or partial surrenders of the
17 contract.

18 (b) Notwithstanding the requirements of this Subsection, any deferred
19 annuity contract may provide that if no considerations have been received under a
20 contract for a period of two full years and the portion of the paid-up annuity benefit
21 at maturity on the plan stipulated in the contract arising from considerations paid
22 prior to such period would be less than twenty dollars monthly, the company may at
23 its option terminate such contract by payment in cash of the then present value of
24 such portion of the paid-up annuity benefit, calculated on the basis of the mortality
25 table, if any, and interest rate specified in the contract for determining the paid-up
26 annuity benefit, and by such payment shall be relieved of any further obligation
27 under such contract.

28 * * *

1 J. For any contract which provides, within the same contract by rider or
2 supplemental contract provision, both annuity benefits and life insurance benefits
3 that are in excess of the greater of cash surrender benefits or a return of the gross
4 considerations with interest, the minimum nonforfeiture benefits shall be equal to the
5 sum of the minimum nonforfeiture benefits for the annuity portion and the minimum
6 nonforfeiture benefits, if any, for the life insurance portion computed as if each
7 portion were a separate contract. Notwithstanding the provisions of Subsections D,
8 E, F, G, and H, additional benefits payable: (i) in the event of total and permanent
9 disability; (ii) as reversionary annuity or deferred reversionary annuity benefits; or
10 (iii) as other policy benefits additional to life insurance, endowment and annuity
11 benefits, and considerations for all such additional benefits, shall be disregarded in
12 ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender,
13 and death benefits that may be required by this Section. The inclusion of such
14 additional benefits shall not be required in any paid-up benefits, unless such
15 additional benefits separately would require minimum nonforfeiture amounts, paid-
16 up annuity, cash surrender, and death benefits.

17 * * *

18 §961. Group annuity contracts; definition; standard provisions

19 A. Any policy or contract, except a joint, reversionary or survivorship
20 annuity contract, whereby annuities are payable dependent upon the continuation of
21 the lives of more than one person, shall be deemed a group annuity contract. The
22 person, firm, or corporation to whom such contract is issued shall be deemed the
23 "holder" of such contract. The term "annuitant," as used herein, refers to any person
24 upon whose continued life such annuity is dependent.

25 B. No group annuity contract shall be delivered or issued for delivery in this
26 state and no certificate shall be used in connection therewith unless it contains in
27 substance the following provisions to the extent that such provisions are applicable
28 to such contract or to such certificate, as the case may be, or provisions which in the

1 opinion of the commissioner of insurance are more favorable to annuitants, or not
2 less favorable to annuitants and more favorable to the holders:

3 (1) Grace period: A provision in such contract that there shall be a period
4 of grace, either of thirty days or of one month, within which any stipulated payment
5 to be remitted by the holder to the insurer, falling due after one year from date of
6 issue, may be made, subject, at the option of the insurer, to an interest charge thereon
7 at a rate, to be specified in the contract, which shall not exceed six ~~per cent~~ percent
8 per annum for the number of days of grace elapsing before such payment.

9 (2) Entire contract: A provision in such contract specifying the document
10 or documents which shall constitute the entire contract between the parties; the
11 document or documents so specified shall be only: (a) the contract; (b) the contract
12 together with the application of the holder of which a copy is attached thereto; or (c)
13 the contract together with the application of the holder of which a copy is attached
14 thereto and the individual applications of annuitants on file with the insurer and
15 referred to therein.

16 (3) Misstatement of age or sex: A provision in such contract, with an
17 appropriate reference thereto in the certificate, for the equitable adjustment of the
18 benefits payable under the contract or of the stipulated payments thereunder, if it
19 be found that the sex, age, service, salary, or any other fact determining the amount
20 of any stipulated payment or the amount or date or dates of payment of any benefit
21 with respect to any annuitant covered thereby, has been misstated.

22 (4) Ascertainment of the benefit: A provision or provisions in such contract,
23 with an appropriate reference thereto in the certificate, specifying the nature and
24 basis of ascertainment of the benefits which will be available to an annuitant who
25 contributes to the cost of the annuity and the conditions of payment thereof in the
26 event of either the termination of employment of the annuitant, except by death, or
27 the discontinuance of stipulated payments under the contract. Such provision or
28 provisions shall, in either of such events, make available to an annuitant who
29 contributes to the cost of the annuity a paid-up annuity payable commencing at a

1 fixed date in an amount at least equal to that purchased by the contributions of the
2 annuitant, determinable as of the respective dates of payment of the several
3 contributions, as shown by a schedule included in the contract for that purpose, based
4 upon the same mortality table, rate of interest, and loading formula used in
5 computing the stipulated payments under such contract. Such provision or
6 provisions may, by way of exception to the foregoing, provide that if the amount of
7 the annuity determined as aforesaid from such fixed commencement date would be
8 less than sixty dollars annually, the insurer may at its option, in lieu of granting such
9 paid-up annuity, pay a cash surrender value at least equal to that hereinafter
10 provided. If a cash surrender value, in lieu of such paid-up annuity, is allowed to the
11 annuitant by the terms of such contract, it may be either in a single sum or in equal
12 installments over a period of not more than twelve months and it shall be at least
13 equal to either (a) or (b), whichever is less: (a) the amount of reserve attributable to
14 the annuitant's contributions less a surrender charge not exceeding thirty-five per
15 centum of the average annual contribution made by the annuitant; or (b) the amount
16 which would be payable as a death benefit at the date of surrender. Such contract
17 shall also provide that in case of the death of the annuitant, before the
18 commencement date of the annuity, the insurer shall pay a death benefit at least
19 equal to the aggregate amount of the annuitant's contributions, without interest. If
20 any benefits are available to the holder in either of such events the contract shall
21 contain a provision or provisions specifying the nature and basis of ascertainment of
22 such benefits.

23 (5) Certificates: A provision in such contract that the insurer will issue to
24 the holder of the contract for delivery to each annuitant who contributes thereunder
25 an individual certificate setting forth a statement in substance of the benefits to
26 which he is entitled under such contract.

27 * * *

1 §1541. Purpose and scope

2 This Subpart shall govern the qualifications and procedures for the licensing
3 of insurance producers. These provisions shall apply to any and all lines of
4 insurance and types of insurers, ~~including but not limited to life, health, property,~~
5 ~~liability, credit, title, fire, or marine, operating on a stock, mutual reciprocal, fraternal~~
6 ~~benefit, hospital, or medical service plan,~~ as set forth in this Subpart.

7 §1542. Definitions

8 As used in this Subpart, unless the context requires otherwise, the following
9 definitions shall be applicable:

10 (1) "Authorized insurer" shall ~~mean any type of insurer other than surplus~~
11 ~~lines or unauthorized insurer. have the same definition as set forth in R.S. 22:46.~~

12 * * *

13 (4) "Home state" shall mean the District of Columbia or any state or territory
14 of the United States in which an insurance producer maintains ~~his or her~~ a principal
15 place of residence or principal place of business and is licensed to act as an insurance
16 producer.

17 * * *

18 (6) "Insurance producer" or "producer" shall mean a person required to be
19 licensed under the laws of this state to sell, solicit, or negotiate insurance, and
20 includes all persons or business entities otherwise referred to in ~~the Louisiana~~
21 ~~Insurance~~ this Code as "insurance agent" or "agent", or "insurance broker" or
22 "broker", or "insurance solicitor" or "solicitor", or "surplus lines broker".

23 * * *

24 (9) "Limited line credit insurance" includes credit life, as defined in R.S.
25 22:47(16) and R.S. 6:969.6(12), credit disability, credit property, credit
26 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, or
27 mortgage disability insurance, and any other form of insurance offered in connection
28 with an extension of credit that is limited to partially or wholly extinguishing that

1 credit obligation that the commissioner of insurance determines should be designated
2 a form of limited line credit insurance.

3 * * *

4 (11) "Limited lines insurance" is any authority granted by the commissioner
5 of insurance which restricts the authority of the licensee to less than the total
6 authority prescribed in the associated major lines pursuant to R.S. 22:1547(A)(1)
7 through ~~(5)~~ (6).

8 * * *

9 (14) "Negotiate" shall mean to confer directly with or to offer advice directly
10 to a purchaser, certificate holder, or enrollee, or prospective purchaser, certificate
11 holder, or enrollee, of a particular contract of insurance, including certificates, riders,
12 endorsements, or amendments, concerning any of the benefits, terms, or conditions
13 of the contract, ~~provided that~~ if the person engaged in that act is an insurance
14 producer who either sells insurance or obtains insurance from insurers for
15 purchasers, certificate holders, or enrollees.

16 * * *

17 (18) "Surplus lines broker" shall mean an insurance producer who solicits,
18 negotiates, or procures a property and casualty policy with an insurance company not
19 licensed to transact business in the state which cannot be procured from insurers
20 licensed to do business in this state. All transactions entered into under such license
21 shall be subject to R.S. 22:1902 ~~431~~ 431 et seq.

22 * * *

23 §1544. Exceptions to licensing; prohibitions

24 * * *

25 B. A license as an insurance producer shall not be required of the following:

26 * * *

27 (5) A person whose activities in this state are limited to advertising without
28 the intent to solicit insurance in this state through communications in printed
29 publications or other forms of electronic mass media whose distribution is not

1 limited to residents of this state, ~~provided that~~ if the person does not sell, solicit, or
2 negotiate insurance that would insure risks residing, located, or to be performed in
3 this state.

4 (6) A person who is not a resident of this state who sells, solicits, or
5 negotiates a contract of insurance for commercial property and casualty risks to an
6 insured with risks located in more than one state insured under that contract,
7 ~~provided if~~ if that person is otherwise licensed as an insurance producer to sell, solicit,
8 or negotiate that insurance in the state where the insured maintains its principal place
9 of business and the contract of insurance insures risks located in that state.

10 (7) A salaried full-time employee who counsels or advises his ~~or her~~
11 employer relative to the insurance interests of the employer or of the subsidiaries or
12 business affiliates of the employer ~~provided that~~ if the employee does not sell or
13 solicit insurance or receive a commission.

14 (8) Employees of an insurer or of an insurance producer who respond to
15 requests from existing policyholders; on existing policies; ~~provided that~~ if those
16 employees are not directly compensated based on the volume of premiums that may
17 result from these services and ~~provided if~~ if those employees do not sell, solicit, or
18 negotiate insurance.

19 * * *

20 D. No person shall be licensed as an insurance producer, limited lines
21 producer, surplus lines broker, or managing general agent in this state if ~~they~~, he or
22 any person who owns directly or indirectly more than ten percent of the beneficial
23 interest in a business entity applying for a license, ~~are~~ is either a citizen of, resident
24 of, domiciled in, or the commissioner determines that ~~they~~ he or the beneficial owner
25 ~~maintain~~ maintains significant assets in; a country that the commissioner determines
26 does not give full faith and credit to any judgment rendered by a court of this state
27 or of the United States, or that the country does not have laws similar to those of this
28 state for the discovery of assets of the insurer, seizure or sale of such assets, and
29 execution of a judgment thereof.

§1545. Examination

* * *

I.(1) The commissioner of insurance shall prepare, publicly announce, and publish a report that summarizes statistical information relating to life insurance agent producer examinations administered during the preceding calendar year. Each report shall include the following information for all examinees combined and separately by gender, race or ethnicity, race or ethnicity within gender, education level, and native language:

* * *

§1546. Application for license

A. A person applying for a resident insurance producer license shall make application to the commissioner of insurance on the Uniform Application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

* * *

(3) Is not disqualified for having committed any act that is a ground for denial, suspension, or revocation as set forth in R.S. 22:1554.

* * *

D.

* * *

(4) The commissioner of insurance shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this Section as confidential and shall apply security measures consistent with the Criminal Justice Information Services Division of the Federal Bureau of Investigation standards for the electronic storage of fingerprints and necessary identifying information and limit the use of records solely to the purposes authorized in this Section. The fingerprints and any criminal history record information shall be exempt from the public records

1 law, (R.S. 44:1 et seq.,) shall not be subject to subpoena, other than a subpoena
2 issued in a criminal proceeding or investigation, ~~and~~ shall be confidential by law and
3 privileged, and shall not be subject to discovery or admissible in evidence in any
4 private civil action.

5 * * *

6 F. Any license issued pursuant to an application claiming residency, ~~for~~
7 ~~licensing purposes~~, as defined ~~herein~~, in R.S. 22:46, shall constitute an election of
8 residency in the state, and shall be void if the licensee while maintaining a resident
9 license also maintains a license in, or thereafter submits an application for a license
10 in, any other state or other jurisdiction stating that the applicant is a resident of such
11 other state or jurisdiction, or if the licensee ceases to be a resident of this state.

12 §1547. License

13 A. Unless denied licensure pursuant to R.S. 22:1554, persons who have met
14 the requirements of this Subpart shall be issued an insurance producer license. An
15 insurance producer may receive qualification for a license in one or more of the
16 following lines of authority:

17 * * *

18 (10) Limited life, health and accident, which provides insurance coverage
19 pursuant to R.S. 22:142. A license for limited life may allow the producer to sell life
20 insurance in an amount not to exceed thirty thousand dollars when appointed by an
21 insurer which meets the minimum financial requirements of, and is licensed pursuant
22 to, R.S. 22:82(A)(1) or 112(A)(1), and when such policies are issued by ~~said~~ such
23 insurer.

24 * * *

25 C.

26 * * *

(2) Any licensee who fails to file timely for license renewal shall be charged a late fee of ~~twenty-five dollars, or other such amount as may be authorized by R.S.~~ 22:821, for each license not renewed timely.

* * *

D. An insurance producer who allows his or her license to lapse may, within five years from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements through the date of reinstatement and upon payment of all fees due. If the license has been lapsed for more than five years, the applicant shall fulfill the requirements for issuance of a new license.

E. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or ~~some~~ other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

* * *

G. Every licensee shall notify the commissioner, by any means acceptable to the commissioner, of any alteration in his residential, mailing, or business address within ten days of the alteration. Failure to file an address change within the required time shall result in the imposition of a fifty-dollar penalty per violation, ~~or as may be authorized by R.S. 22:821.~~ Any person against whom a penalty has been levied shall be given due notice of such action. Upon receipt of this notice, the licensee may apply for and shall be entitled to a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

H. A duplicate license may be issued for any lost, stolen, or destroyed license issued pursuant to this Subpart upon a request by the licensee, by a method prescribed by the commissioner, setting forth the facts of such loss, theft, or destruction, together with a fee of five dollars, or such amount as may be authorized by R.S. 22:821.

1 I. Any licensed property and casualty insurance producer maintaining an
2 office at a designated location in this state and having at least two years experience
3 in the insurance business with an insurer or as an insurance producer may be licensed
4 as a surplus lines broker as follows:

5 * * *

6 (3) ~~Passage of~~ The applicant shall pass an examination approved by the
7 commissioner of insurance.

8 * * *

9 §1548. Nonresident licensing

10 A. Unless denied licensure pursuant to R.S. 22:1554, a nonresident person
11 shall receive a nonresident producer license if:

12 (1) The person is currently licensed as a resident and in good standing in his
13 ~~or her~~ home state.

14 * * *

15 (3) The person has submitted or transmitted to the commissioner of
16 insurance the application for licensure that the person submitted to his ~~or her~~ home
17 state, or in lieu of the same, a completed Uniform Application.

18 * * *

19 B.

20 * * *

21 (2) Whenever, by the laws or regulations of any other state or jurisdiction,
22 any limitation of rights and privileges, conditions precedent, or any other
23 requirements are imposed upon residents of this state who are nonresident applicants
24 or licensees of such other state or jurisdiction in addition to, or in excess of, those
25 imposed on nonresidents under this Subpart, the same ~~such~~ requirements shall be
26 imposed upon such residents of such other state or jurisdiction.

27 (3)

28 * * *

1 (b) The service of process upon any such licensee in any action or
2 proceeding in any court of competent jurisdiction may be made by a party serving
3 the commissioner of insurance with appropriate copies thereof and the payment to
4 him of a the fee of twenty-five dollars, or as may be authorized by R.S. 22:821.

5 * * *

6 D.

7 * * *

8 (2) Except as provided by Subsection A of this Section, nothing in this
9 Section otherwise amends or supersedes any provision of R.S. 22:1902 431 et seq.

10 E. Notwithstanding any other provision of this Subpart, a person licensed as
11 a limited line credit insurance or other type of limited lines producer in his home
12 state shall receive a nonresident limited lines producer license, pursuant to
13 Subsection A of this Section, granting the same scope of authority as granted under
14 the license issued by the producer's home state. For the purposes of this Subsection,
15 limited line insurance is any authority granted by the home state which restricts the
16 authority of the licensee to less than the total authority prescribed in the associated
17 major lines pursuant to R.S. 22:1547(A)(1) through ~~(5)~~(6).

18 §1549. Specialty limited lines credit insurance

19 * * *

20 B. For a specialty limited lines credit insurance producer license to be issued
21 pursuant to this Section, an applicant must submit to the commissioner all of the
22 following:

23 * * *

24 (4) An application fee ~~in the amount of one thousand dollars, or for an~~
25 ~~applicant registering twenty or fewer employees or representatives, an application~~
26 ~~fee in the amount of two hundred fifty dollars, or such other amount as may be~~
27 ~~authorized by~~ as set forth in R.S. 22:821.

28 (5) Upon approval of the application, but prior to issuance of the license, the
29 applicant shall submit a registration fee ~~of twenty dollars per employee or~~

1 representative to be registered by the licensee; however, the registration fee shall not
2 ~~exceed two thousand five hundred dollars annually for each licensee.~~ as set forth in
3 R.S. 22:821.

C. Following initial issuance of the specialty limited lines credit insurance producer license, the licensee shall submit an annual renewal application, in a manner prescribed by the commissioner, along with ~~an annual renewal fee of five hundred dollars, or for a licensee registering twenty or fewer employees or representatives, an annual renewal fee of one hundred twenty-five dollars, and an annual renewal registration fee of ten dollars per employee or representative of the licensee, or such other amounts as may be authorized by~~ the fee as set forth in R.S. 22:821.

D. The licensee shall submit, in a manner prescribed by the commissioner, a current list of employees and representatives for verification by the commissioner every six months, in addition to ~~an initial~~ the registration fee of ~~twenty dollars per~~ required by R.S. 22:821 for every employee or representative not previously registered.

17 E. A specialty limited lines credit insurance producer license issued pursuant
18 to this Section authorizes an employee or representative of the license holder to
19 participate in enrollment of retail sales and credit customers in the types of insurance
20 specified in this Section without being licensed, ~~provided~~ if all of the following ~~is~~
21 are true:

22 * * *

F. A specialty limited lines credit insurance producer may not in any manner advertise, represent, or otherwise hold out any employee or representative of the license holder as a licensed insurance agent producer pursuant to another provision of this Subpart, unless the entity or individual actually holds the applicable license.

27 * * *

H. The specialty limited lines credit insurance producer license shall be available equally to residents and nonresidents, ~~provided that~~; however, if the laws

1 or regulations of any other state would not permit a specialty limited lines credit
2 insurance producer that is a resident of this state to obtain a substantially equivalent
3 nonresident license, then residents of that state shall not be permitted to obtain a
4 specialty limited lines credit insurance producer license as nonresidents under this
5 Section.

6 * * *

7 §1550. Specialty limited lines motor vehicle title insurance producer licenses

8 A.

9 * * *

10 (2) No producer shall sell, solicit, or negotiate motor vehicle title insurance
11 pursuant to a specialty limited lines motor vehicle title insurance producer license
12 other than in connection with retail sales of motor vehicles ~~wherein~~ in which the
13 transaction exceeds one thousand dollars and as provided in rules and regulations
14 adopted by the commissioner of insurance.

15 * * *

16 B.(1) For a specialty limited lines motor vehicle title insurance producer
17 license to be issued pursuant to this Section, an applicant ~~must~~ shall submit to the
18 commissioner of insurance all of the following:

19 * * *

20 (d) An application fee in the amount of ~~one thousand dollars, or for an~~
21 ~~applicant registering twenty or fewer employees or representatives, an application~~
22 ~~fee in the amount of two hundred fifty dollars, or such other amount as may be~~
23 ~~authorized by~~ set forth in R.S. 22:821.

24 (2) Upon approval of the application, but prior to issuance of the license, the
25 applicant shall also submit a registration fee of ~~twenty dollars per employee or~~
26 ~~representative to be registered by the licensee; however, the registration fee shall not~~
27 ~~exceed two thousand five hundred dollars annually for each licensee.~~ in the amount
28 set forth in R.S. 22:821.

1 C. Following initial issuance of the specialty limited lines motor vehicle title
2 insurance producer license, the licensee shall submit an annual renewal application,
3 in a manner prescribed by the commissioner of insurance, along with an annual
4 renewal fee ~~of five hundred dollars, or for a licensee registering twenty or fewer~~
5 ~~employees or representatives, an annual renewal fee of one hundred twenty-five~~
6 ~~dollars, and an annual renewal registration fee of ten dollars per employee or~~
7 ~~representative of the licensee, or such other amounts as may be authorized by~~ as set
8 forth in R.S. 22:821.

9 D. The licensee shall submit, in a manner prescribed by the commissioner
10 of insurance, a current list of employees and representatives for verification by the
11 commissioner every six months in addition to ~~an initial~~ a registration fee ~~of twenty~~
12 ~~dollars per~~ as required by R.S. 22:821 for every employee or representative not
13 previously registered.

14 E. A specialty limited lines motor vehicle title insurance producer license
15 issued pursuant to this Section authorizes an employee or representative of the
16 license holder to participate in enrollment of retail motor vehicle sales customers in
17 the types of insurance specified in this Section without being licensed, ~~provided if~~
18 all of the following ~~is~~ are true:

19 * * *

20 H. The specialty limited lines motor vehicle title insurance producer license
21 shall be available equally to residents and nonresidents, ~~provided that;~~ however, if
22 the laws or regulations of any other state would not permit a specialty limited lines
23 motor vehicle title insurance producer that is a resident of this state to obtain a
24 substantially equivalent nonresident license, then residents of that state shall not be
25 permitted to obtain a specialty limited lines motor vehicle title insurance producer
26 license as nonresidents under this Section.

27 * * *

1 §1554. License denial, nonrenewal, or revocation

2 * * *

3 G. Upon suspension, revocation, or termination of the license of a resident
4 of this state, the commissioner shall notify ~~the support and services office of the~~
5 National Association of Insurance Commissioners and the proper insurance official
6 of each state for whom the commissioner has executed a certificate as provided for
7 herein.

8 * * *

9 §1555. Liability of ~~agents~~ producers on binder

10 The commissioner of insurance may suspend or revoke the license of any
11 ~~agent~~ producer issuing or purporting to issue any binder ~~as to~~ on behalf of any
12 insurer ~~named therein as to~~ for which he is not then authorized ~~so~~ to bind.

13 §1556. License to solicit or transact bail; prohibited activities

14 A. A bail ~~licensee~~ bond producer shall not directly or indirectly permit any
15 person, including an employee, to sign or execute a power of attorney or to effect the
16 undertaking of bail for the release of a defendant or to apprehend or surrender a
17 defendant on his behalf unless the person is properly licensed by the commissioner
18 to perform such acts. This Section shall not prevent a bail bond producer from using
19 mail, messenger or delivery service to file executed undertakings of bail or deliver
20 bail bonds, nor shall it prevent such filing or delivery by the attorney or other agent
21 of the defendant.

22 B. A bail ~~licensee~~ bond producer shall not directly or indirectly give a gift
23 of any kind to a prisoner of a jail or place of detention or to a public official or
24 employee of a governmental agency whose duties, functions, or responsibilities
25 include the administration of justice.

26 C. Upon first violation, a person or entity that violates Subsection A of this
27 Section shall be subjected to a six-month suspension of their license to write or
28 solicit bail bonds and fined an amount not to exceed five thousand dollars. A second
29 or any subsequent violation shall subject the person or entity to a suspension of their

1 license to write or solicit bail bonds for not more than one year and a fine not to
2 exceed ten thousand dollars. A hearing may be requested pursuant to the provisions
3 of Chapter 12 of this Title, subject to the provisions of Chapter 13-B of Title 49 of
4 the Louisiana Revised Statutes of 1950.

5 * * *

6 §1557. Commissions

7 * * *

8 B.(1) No member of an insurance advisory committee of any state agency,
9 board, commission, or of any political subdivision of this state, including but not
10 limited to school boards, levee boards, deep water port commissions, deep water
11 port, harbor and terminal districts, and the Louisiana Stadium and Exposition
12 District, shall split, pass on, or share with any insurance producer or other person
13 who is not a member of his own firm or corporation and is not a member of ~~said~~ such
14 an insurance advisory committee, all or any portion of the commission derived by
15 such committee from the purchase of insurance by such state agency, board,
16 commission, or political subdivision of the state without express authorization by
17 official action of such state agency, board, commission, or political subdivision of
18 the state. Any insurance producer or other person who is not a member of such firm
19 or corporation and is not a member of ~~said~~ such an insurance advisory committee
20 who receives without authorization all or any portion of such commission shall also
21 be in violation of this Subsection.

22 (2) Any ~~violation of~~ person who violates the provisions of this Subsection
23 shall, upon conviction, be fined not less than one thousand dollars, nor more than
24 five thousand dollars per violation, or imprisoned for not more than two years, or
25 both.

26 C. The commission paid by each fire, casualty, surety, fidelity, guaranty, and
27 bonding insurer doing business in this state to its producers in this state shall be
28 uniform and equal as to all classes of producers of such insurer throughout this state.

1 §1558. Appointments

2 * * *

3 B.

4 * * *

5 (3) Each insurer shall submit to the commissioner of insurance, in a manner
6 prescribed by the commissioner, a list of appointed producers which it intends to
7 appoint or reappoint. Each insurer shall remit, in a manner prescribed by the
8 commissioner, appointment fees in the ~~amount~~ amounts set forth in R.S. 22:821.
9 Any insurer who fails to file its renewal company appointments will be fined ten
10 dollars per license named in its appointment form, ~~or as otherwise authorized by R.S.~~
11 ~~22:821.~~

12 (4) An appointment as provided ~~herein~~ for in this Section shall remain in full
13 force and effect until the following date of ~~recording~~, renewal, unless the license
14 of the appointed producer named therein is revoked by the commissioner as provided
15 for in this Subpart, or until canceled by the insurer upon written notice to the
16 producer with a copy thereof filed with the commissioner.

17 * * *

18 C. Any insurance producer, unless otherwise prohibited by contract, licensed
19 in this state, may solicit, negotiate, or effect applications for policies of insurance
20 with any insurer lawfully doing business in this state, other than an insurer such
21 producer is ~~licensed~~ appointed to represent, if such producer is under contract with
22 such insurer. However, no commissions shall be paid by such ~~company~~ insurer to
23 the producer until ~~such time as notice of recording of the appointment with respect~~
24 ~~to such producer has been received by the producer from~~ has been recorded by the
25 commissioner.

26 D. If any producer is operating or intends to operate its business affairs as
27 a partnership, corporation, or other business entity, the appointments ~~herein~~ in this
28 Section may be issued by an insurer in the name of such partnership, corporation, or
29 other business entity, ~~upon application, to be licensed as an insurance producer under~~

1 ~~this Subpart, provided if~~ all persons in said such partnership, corporation, or other
2 business entity actively engaged in soliciting, negotiating, or effecting contracts of
3 insurance or renewals thereof also hold an ~~unexpired~~ producer's active
4 producer license issued in accordance with the provisions of this Subpart.

5 §1559. Notification to commissioner of termination

6 * * *

7 C. The insurer or the authorized representative of the insurer shall promptly
8 notify the commissioner of insurance, in a manner acceptable to the commissioner,
9 if, upon further review or investigation, the insurer discovers additional information
10 that would have been reportable to the commissioner of insurance in accordance with
11 Subsection B of this Section had the insurer then known of its existence.

D.(1) Within fifteen days after making any notification required by Subsections A, B, or C; of this Section, the insurer shall mail a copy of the notification to the producer at his last known address. If the producer is terminated for cause for any of the reasons specified in R.S. 22:1554, the insurer shall provide a copy of the notification to the producer at his last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

19 * * *

E.(1) In the absence of actual malice, ~~neither an~~ insurer, the authorized representative of the insurer, a producer, the commissioner of insurance, ~~nor or~~ any organization of which the commissioner is a member and that compiles the information and makes it available to other state insurance officials or regulatory or law enforcement agencies, shall not be subject to civil liability, ~~and a~~ No civil cause of action ~~of any nature~~ shall ~~not~~ arise against these entities or their respective ~~agents~~ producers or employees, as a result of any statement or information required by or provided pursuant to this Section or any information relating to any statement that may be requested in writing by the commissioner, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or producer limited

1 solely and exclusively to whether a termination for cause ~~under~~ pursuant to
2 Subsection B of this Section was reported to the commissioner, ~~provided that~~ if the
3 propriety of any termination for cause ~~under~~ pursuant to Subsection B of this Section
4 is certified in writing by an officer or authorized representative of the insurer or
5 producer terminating the relationship.

6 * * *

7 §1562. Prohibited acts

8 * * *

9 C.(1) It shall be unlawful for any person or business entity, without
10 conforming to the provisions of this Part, directly or indirectly, to represent himself
11 or itself to be an insurance producer or limited lines producer, or to solicit, negotiate,
12 or effect any contract of insurance or renewal thereof, or to attempt to effect the
13 same on any property, or risk or insurable interests or business activities, located
14 within or transacted within this state. This Subsection shall not apply to:

15 * * *

16 (b) Employees of ~~insurance companies~~ insurers who solicit insurance only
17 for or in conjunction with licensed insurance producers compensated on a
18 commission basis.

19 * * *

20 (d) Employees of ~~insurance companies~~ insurers who do not solicit insurance
21 but are authorized by their employer to sign policies of insurance.

22 * * *

23 E.

24 * * *

25 (2) Except as ~~hereinafter~~ provided in Paragraph (3) of this Subsection, any
26 person ~~or business entity~~ shall be liable for the full amount of any loss sustained on
27 any contract of insurance made by or through him or it, directly or indirectly, with
28 any insurer not lawfully authorized to transact business in this state, and for any
29 taxes which may become due under any law of this state by reason of such contract.

1 For purposes of this Section, any surplus lines insurer which is approved by the
 2 commissioner shall be considered lawfully authorized to transact business in this
 3 state.

4 * * *

5 H. No insurer, ~~agent~~, or ~~broker~~ producer shall accept or process an
 6 application for coverage under a Medicare+Choice plan unless the following
 7 requirements are met:

8 * * *

9 (4) The Medicare enrollee is notified of any known change in health care
 10 providers that may reasonably result from the action of the ~~agent or broker~~. producer.

11 * * *

12 §1564. Producers of record

13 A.

14 * * *

15 (2) This Subsection establishes an agency relationship only for the matter of
 16 collection of premiums specifically referred to ~~herein~~. in this Section.

17 B.(1)(a) Any ~~insurance company authorized to transact property, casualty,~~
 18 ~~accident, or health insurance or bond business in this state or~~ insurer issuing or
 19 delivering property, casualty, accident, or health insurance, or bonds in this state
 20 shall recognize a producer of record when selected by the owner of the policy or the
 21 first-named insured if there are multiple-named insureds in writing. The insurer
 22 shall recognize the producer of record for purposes of providing quotations or
 23 proposals or writing such policies or bonds. The insurer shall retain the producer of
 24 record who wrote such policies or bonds for the full term of the contracts or until the
 25 renewal date or termination of the contracts, whichever occurs first. The insurer
 26 shall not change or remove such producer by any producer of record letter which
 27 may be secured by another producer for purposes of providing a quotation or
 28 proposal or for writing such policies or bonds during the term of such contracts until
 29 the renewal date of the contracts, unless the change or removal is requested by the

owner of the policy or the first-named insured if there are multiple-named insureds under a particular contract. In such case, such owner or insured shall select the new producer of record.

* * *

C. The provisions of this Section shall not apply to ~~individually underwritten, guaranteed renewable~~ limited benefit health insurance policies: or contracts authorized to be issued in this state.

* * *

§1571. Registered insurance ~~agent~~ producer and bail ~~agent~~ bond producer prelicensing program

A.(1) The commissioner shall certify an educational program that meets the requirements of this Subpart and any rules or regulations promulgated pursuant to this Subpart as a registered insurance ~~agent~~ producer or bail ~~agent~~ bond producer prelicensing program. Any person who satisfactorily completes an educational program which has been certified as a registered insurance ~~agent~~ producer or bail ~~agent~~ bond producer prelicensing program pursuant to this Subpart shall satisfy the preexamination educational requirements of R.S. 22:1571(E).

(2) For purposes of this Subpart, "bail ~~agent~~ bond producer" shall mean any person, corporation, or partnership which holds an insurance license and has a contract and an appointment from an ~~insurance company~~ insurer licensed and authorized to provide surety in Louisiana.

B. The commissioner shall promulgate rules and regulations setting forth guidelines and requirements for the content and conduct of a registered insurance ~~agent~~ or bail ~~agent~~ bond producer prelicensing program and for the procedure for certification of an instructional program as a registered insurance ~~agent~~ producer or bail bond producer prelicensing program. The commissioner shall also promulgate rules and regulations specifying the qualifications which each instructor in a registered insurance ~~agent~~ producer or bail ~~agent~~ bond producer prelicensing program shall possess. All such rules and regulations promulgated by the

1 commissioner shall be promulgated pursuant to the provisions of the Administrative
2 Procedure Act.

3 C. Each registered insurance ~~agent~~ producer or bail ~~agent~~ bond producer
4 prelicensing program shall be conducted by one of the following:

5 (1) An insurance trade association;

6 (2) An insurance company admitted to do business in Louisiana;

7 (3) An accredited public or private college or university; ~~or~~

8 (4) An organization recommended by and certified by the commissioner of
9 insurance.

10 D. Each instructor in a registered insurance ~~agent~~ producer or bail bond
11 producer prelicensing program shall possess the qualifications promulgated by the
12 commissioner of insurance for instructors in such programs.

13 E.(1) Each registered insurance ~~agent~~ producer or bail bond producer
14 prelicensing program shall provide instruction by a qualified instructor in a
15 structured setting or by verifiable approved self-study with a minimum of twenty
16 hours of supervised instruction or self-study, including instruction in applicable
17 insurance principles, state laws and regulations, and ethical practices, for each of the
18 following lines of authority a license is sought: life, health and accident, property,
19 casualty, and personal lines.

20 (2) Each registered bail ~~agent~~ bond producer prelicensing program shall
21 provide instruction by a qualified instructor in a structured setting with a minimum
22 of eight hours of supervised instruction, including instruction in applicable
23 underwriting principles, state laws and regulations, and ethical practices.

24 F. While instruction is in progress in a registered insurance ~~agent~~ producer
25 or bail ~~agent~~ bond producer prelicensing program, the instructor shall permit the
26 commissioner, ~~any member of the Insurance Education Advisory Council, and~~ or any
27 employee of the Department of Insurance to attend any educational session. Such
28 access shall be for the purpose of monitoring the instruction and program and shall
29 not be disruptive to the instruction. ~~Any person who attends any educational session~~

1 ~~pursuant to the authority of this Subsection shall do so in an official capacity only.~~

2 No information or materials shall be used for any personal reasons or gain.

3 G. The director or supervisor of each registered insurance ~~agent~~ producer or
4 bail ~~agent~~ bond producer prelicensing program shall submit its current course
5 materials to the commissioner of insurance for his review upon his request but no
6 less frequently than every three years.

7 H. In accordance and compliance with R.S. 49:961, the commissioner may
8 cancel or suspend the certification of any registered insurance ~~agent~~ or bail ~~agent~~
9 bond producer prelicensing program which does not meet the requirements of this
10 Subpart or of any of the rules or regulations promulgated pursuant to this Subpart.
11 Such cancellation or suspension shall be made after notice and an opportunity for
12 hearing. An aggrieved party affected by the commissioner's decision, act, or order
13 may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et
14 seq.

15 §1573. Continuing education requirements

16 * * *

17 C. ~~Beginning with renewals effective in 2010,~~ life insurance ~~agents~~
18 producers and health insurance ~~agents~~ producers shall complete twenty-four hours
19 of approved instruction or verifiable approved self-study prior to each renewal of
20 license, with at least three hours dedicated to the subject of ethics.

21 D. ~~Beginning with renewals effective in 1993, insurance brokers, solicitors,~~
22 ~~and agents~~ Insurance producers authorized to write property, casualty, or property
23 and casualty or personal lines insurance business shall complete twenty-four hours
24 of approved instruction or verifiable approved self-study before each renewal of
25 license: ~~Beginning with renewals effective in 2007, three hours of approved~~
26 ~~instruction shall be dedicated to flood insurance. Beginning with renewals effective~~
27 ~~in 2011, with~~ at least three hours of approved instruction ~~shall be~~ dedicated to the
28 subject of ethics.

E. For ~~brokers, solicitors, and agents~~ producers authorized both to write life, health and accident insurance and authorized to write property, casualty, or property and casualty or personal lines insurance business, the continuing education requirement for renewal of license shall be twenty-four hours of approved instruction or verifiable approved self-study. ~~Beginning with renewals effective in 2011, with~~ at least three hours of approved instruction or verifiable approved self-study ~~shall be~~ dedicated to the subject of ethics.

F.(1) For bail agents and solicitors bond producers, the continuing education requirement for renewal of license shall be twelve hours of approved bail underwriting instruction.

G. No more than ten excess hours of approved property and casualty insurance instruction and no more than ten excess hours of approved life, and health, and accident insurance instruction accumulated during the previous one renewal period may be carried forward and applied to the continuing education requirement for the next renewal period.

* * *

I.(1)(a) The provisions of this Section, imposing continuing education requirements for renewal of a license, shall not apply to any person sixty-five years of age or older on January 1, 2012, who has at least fifteen years of experience as a licensed agent, broker, or solicitor, producer and who either:

(i) Is no longer actively engaged in the insurance business as ~~an agent, broker, or solicitor~~ a producer and who is receiving social security benefits, if eligible.

(ii) Is actively engaged in the insurance business as ~~an agent, broker, or solicitor~~ a producer and who represents or operates through a licensed Louisiana insurer.

* * *

1 K. The department may grant four continuing education credits, as
2 determined by the commissioner, to a licensed ~~agent or broker~~ producer who is a
3 member of, and actively participates in, a state or national insurance association.

4 L. ~~Beginning with renewals effective in 2006, title insurance agents, Title~~
5 producers licensed pursuant to Subpart R of Part I of Chapter 2 of this Title, R.S.
6 22:511 et seq., shall complete six hours of approved instruction prior to the renewal
7 of the license.

8 M. Any ~~agent~~, property and casualty producer, upon receiving his initial
9 license, shall complete three hours of approved instruction dedicated to flood
10 insurance on his first license renewal when continuing education is required.

11 §1574. Bail Bond Apprentice Program

12 A.(1) The Bail Bond Apprentice Program is hereby created.

13 (2) The Bail Bond Apprentice Program shall be available only to persons
14 who meet current bail bond producer licensing requirements as provided for in
15 Chapter 5 of this Title and who have not been convicted of a felony.

16 (3) Apprentices shall complete the registered insurance producer and bail
17 bond producer prelicensing program as provided for in R.S. 22:1571 before the end
18 of the apprenticeship program.

19 B. The Bail Bond Apprentice Program shall consist of six consecutive
20 months of employment by a Louisiana Department of Insurance licensed bail bond
21 producer. The apprentice shall be supervised by the producer during the six-month
22 period and work for no less than twenty-four hours per week. The apprentice shall
23 observe the bail bond producer, perform every phase of the bail bond business, and
24 shall perform duties in every phase of the bail bond business except for the
25 solicitation, negotiation, quotation of fees, and the execution of a bail bond.

26 C. The supervising bail bond producer shall maintain records to support that
27 the apprentice has worked the required number of hours. These records shall include
28 time sheets and pay stubs, and shall be made available for examination and review
29 to the Department of Insurance upon request.

1 D.(1) Upon completion of the required six months of work experience,
2 without expulsion, the apprentice and the supervising bail bond producer shall
3 certify, on a form provided by the Department of Insurance, that the apprentice has
4 completed all of the requirements of the apprentice program. This form shall be a
5 notarized sworn affidavit, completed under penalty of perjury.

6 * * *

7 §1575. Producer training requirements to sell long-term care insurance

8 * * *

9 C.

10 * * *

11 (2) Insurers shall maintain records with respect to the training of its
12 producers concerning the distribution of its partnership policies that will allow the
13 state insurance department to provide assurance to the state Medicaid agency that
14 producers have received the training contained in Subparagraph (B)(2)(a) of this
15 Section as required by Subsection A of this Section and that producers have
16 demonstrated an understanding of the partnership policies and their relationship to
17 public and private coverage of long-term care, including Medicaid, in this state. ~~The~~
18 ~~forementioned~~ These records shall be maintained in accordance with the state's
19 record retention requirements and shall be made available to the commissioner upon
20 request.

21 D. The satisfaction of ~~said~~ such training requirements in any state shall be
22 deemed to satisfy the training requirements in this state.

23 * * *

24 §1583. Licensing and fees

25 Except as provided by the regulations authorized in this Subpart, bail
26 enforcement agents shall be subject to the same licensing and fee requirements as
27 bail bond ~~insurance agents~~ producers.

§1584. ~~Bond~~ Bail bond producers; prohibitions; penalties

* * *

§1585. Surrender for nonpayment of premium

* * *

C. Upon first violation, a bail bond producer who surrenders a client for nonpayment of a premium in violation of this Section shall be subject to a suspension of his license for not more than six months and fined an amount not to exceed five thousand dollars. A second or any subsequent violation may be punishable by permanent revocation of the bail bond producer's license and a fine not to exceed ten thousand dollars.

* * *

§1591. Short title

This ~~Chapter~~ Subpart may be cited as the "Financial Institution Insurance Sales Law".

§1592. Purpose

The legislature hereby declares that the purpose of this ~~Chapter~~ Subpart is to regulate the business of insurance in Louisiana and to protect the interests of insurance policyholders in this state.

§1593. Definitions

A. For the purposes of this Chapter: Subpart:

(1) "Financial institution" means a state or national bank or branch thereof which accepts federally insured deposits or makes loans from a place of business located in the state of Louisiana or any subsidiary or employee thereof, or a bank holding company or subsidiary or employee thereof, only if the bank holding company owns or controls a state or national bank or branch thereof which accepts federally insured deposits or makes loans from a place of business located in the state of Louisiana. The term financial institution does not include a bank which was

1 engaged as an insurance ~~agent~~ producer on January 1, 1984, or an insurance
2 company.

3 * * *

4 §1594. Applicability

5 The provisions of this ~~Chapter~~ Subpart shall not apply to the following:

6 * * *

7 §1595. Authorization for implementing regulations

8 The commissioner of insurance shall have the authority to promulgate rules
9 and regulations in accordance with the authority granted by the Administrative
10 Procedure Act as may be necessary to effectuate the provisions of this ~~Chapter~~.
11 Subpart. However, the commissioner of insurance shall not impose any additional
12 requirement on any insurance ~~agent or broker~~ producer who is associated with a
13 financial institution that is not imposed on any insurance ~~agent~~ producer who is not
14 associated with such institution unless such requirement is set forth in this ~~Chapter~~.
15 Subpart.

16 * * *

17 §1597. Sales force

18 The solicitation of a customer of a financial institution for the purchase or
19 sale of insurance shall not be conducted by any natural person directly responsible
20 for making a specific loan or extension of credit to that customer before such time
21 as the final decision regarding the acceptance or denial of that specific loan or
22 extension of credit is made and communicated in writing to the customer. For the
23 purposes of this ~~Chapter~~, Subpart, solicitation does not include referral of the
24 customer to a licensed insurance ~~agent~~ producer not directly responsible for making
25 the specific loan or extension of credit, informing the customer that the required
26 insurance is available from the financial institution, or providing the customer with
27 any disclosures which are required by R.S. 22:1600.

§1598. Referrals

* * *

C. Any person or entity responsible for making a specific loan or extension of credit may receive a reasonable referral fee for the insurance referral of a customer who is required to provide insurance for that loan or extension of credit. An insurance referral fee paid to such person or entity making a specific loan or extension of credit shall not be in the form of an insurance sales commission which varies based on the quotation or application for insurance, purchase of insurance, or the amount of premium written. The insurance referral fee shall be paid solely on the basis of the referral. This Section shall not preclude a person directly or indirectly responsible for making a specific loan or extension of credit, who is a licensed insurance producer, from soliciting and selling insurance to a loan customer and earning a commission, so long as the solicitation and sale is conducted after the final loan decision has been communicated to the customer in writing, in accordance with the provisions of R.S. 22:1597. The customer shall also be notified that ~~they~~ he is not required to purchase insurance through the financial institution, and the customer's choice of another insurance provider will not affect the financial institution's credit decision or credit terms in any way.

§1599. Insurance as a condition to service

A. A financial institution shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer shall obtain insurance from the financial institution. In accordance with the foregoing, provisions of this Subpart, the financial institution shall not represent that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of, or is any way related to, the lending of money or extension of credit, the establishment or maintenance of a trust account,

the establishment or maintenance of a checking, savings, or deposit account, or the provision of services related to any such activities.

* * *

C. The following activities conducted in accordance with the provisions of this ~~Chapter~~ Subpart shall not violate the provisions of this Section:

* * *

§1600. ~~Disclosures;~~ Disclosure; required

* * *

B. The financial institution shall give the customer the ~~disclosures~~ disclosure provided in Subsection A of this Section when it first informs the customer that required insurance is available from the financial institution if:

* * *

§1603. No discrimination against non-affiliated ~~agents~~ producers

No financial institution may:

(1) Offer a banking product or service, or fix or vary the conditions of such offer, on a condition or requirement that the customer obtain insurance from any particular ~~agent or broker;~~ producer.

* * *

(3) Impose any unreasonable requirement on any insurance ~~agent or broker~~ producer who is not associated with the financial institution that is not imposed on any insurance ~~agent~~ producer who is associated with such institution.

§1604. Customer privacy; protections

A. As used in this Section, unless the context requires otherwise:

* * *

(2) "Nonpublic customer information" means information maintained by a financial institution relating to insurance coverage purchased by a customer from an insurer, insurance agency, or insurance ~~agent~~ producer that is not affiliated with the financial institution. "Nonpublic customer information" does not include customer names, addresses and telephone numbers, or any information relating to deposit or

investment accounts, loans, or other extensions of credit, or the credit history or financial condition of a customer. Nonpublic customer information includes information concerning insurance escrow accounts, insurance premiums, the terms and conditions of insurance coverage, insurance expirations, insurance claims, and insurance history of an individual, when such information relates to insurance coverage purchased by a customer from an insurer, insurance agency, or insurance ~~agent producer~~ that is not affiliated with that financial institution.

* * *

§1605. Unfair trade practice

Failure to comply with any of the provisions of this ~~Chapter~~ Subpart shall be an unfair method of competition and an unfair or deceptive act or practice subject to regulation by the commissioner of insurance as provided by law, including R.S. 22:1554 and 1967 through 1972.

* * *

§1622. Definitions

As used in this Part, unless the context requires otherwise, the following definitions shall be applicable:

~~A. (1)~~ "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

~~B. (2)~~ "Commissioner" means the commissioner of insurance ~~of this state.~~
as defined in R.S. 22:46.

~~C. (3)~~ "Insurer" means any person, ~~firm, association, or corporation~~ duly licensed in this state as an insurer pursuant to this Chapter.

~~D. (1)~~ (4)(a) "Managing General Agent" (MGA) means any person, ~~firm, association, or corporation~~ who manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for such insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly,

1 and underwrites an amount of gross direct written premium equal to or more than
2 five percent of the policyholder surplus as reported in the last annual statement of the
3 insurer in any one quarter or year together with one or more of the following:

4 ~~(a)~~ (i) Adjusts or pays claims in excess of an amount determined by the
5 commissioner; ~~or.~~

6 ~~(b)~~ (ii) Negotiates reinsurance on behalf of the insurer.

7 ~~(2)~~ (b) Notwithstanding ~~the above~~, the preceding provisions of this
8 Subsection, the following persons shall not be considered as MGAs for the purposes
9 of this Part:

10 ~~(a)~~ (i) An employee of the insurer.

11 ~~(b)~~ (ii) A United States manager of the United States branch of an alien
12 insurer.

13 ~~(c)~~ (iii) An underwriting manager, which, pursuant to contract, manages all
14 the insurance operations of the insurer, is under common control with the insurer,
15 subject to the Insurance Holding Company System Regulatory Act, Law, R.S. 22:691
16 et seq. and whose compensation is not based on the volume of premiums written.

17 ~~(d)~~ (iv) The attorney authorized by and acting for the subscribers of a
18 reciprocal insurer or inter-insurance exchange under powers of attorney.

19 E. ~~"Underwrite" means the authority to accept or reject risk on behalf of the~~
20 ~~insurer.~~

21 (5) "Person" shall have the same meaning as set forth in R.S. 22:1542.

22 F. (6) "Producer" or "insurance producer" means a person currently licensed
23 as a property and casualty agent, producer in accordance with the provisions of this
24 Title, who is properly appointed to represent the insurer for the lines of insurance for
25 which he is performing the duties of a managing general agent as defined ~~herein~~. in
26 this Part.

27 (7) "Underwrite" means the authority to accept or reject risk on behalf of the
28 insurer.

§1623. Licensure; registration

A. ~~No person, firm, association, or corporation~~ shall act in the capacity of an MGA with respect to risks located in this state for an insurer licensed in this state unless such person is a licensed producer in this state.

B. No person, ~~firm, association, or corporation~~ shall act in the capacity of an MGA representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as a resident or nonresident producer in this state pursuant to the provisions of this Part.

* * *

D. ~~No person, firm, association, or corporation~~ shall act in the capacity of an MGA in this state unless such ~~person, firm, association, or corporation~~ has registered his name, current residential address, current mailing address, and current business address with the commissioner, on forms prescribed by the commissioner, together with a fee in the amount set forth in R.S. 22:821.

* * *

F. If a person, ~~firm, association, or corporation~~ fails to provide any of the information required ~~under~~ pursuant to this Section, the commissioner may, after notification by the commissioner to the person, ~~firm, association, or corporation~~ by certified mail of such failure, impose a fine not to exceed fifty dollars.

* * *

§1624. Required contract provisions

A. ~~No person, firm, association, or corporation~~ acting in the capacity of an MGA shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and, when both parties share responsibility for a particular function, specifies the division of such responsibilities, and which contains the following minimum provisions:

~~A. (1)~~ The insurer may terminate the contract for cause upon written notice to the MGA. The insurer may suspend the underwriting authority of the MGA

1 ~~during the pendency of~~ while any dispute regarding the cause for termination: is
2 pending.

3 ~~B.~~ (2) The MGA shall render accounts to the insurer detailing all transactions
4 and remit all funds due under the contract to the insurer on not less than a monthly
5 basis.

6 ~~C.~~ (3) All funds collected for the account of an insurer shall be held by the
7 MGA in a fiduciary capacity in a bank which is a member of the Federal Deposit
8 Insurance Corporation (FDIC). This account shall be used for all payments on behalf
9 of the insurer. The MGA may retain no more than three months' estimated claims
10 payments and allocated loss adjustment expenses.

11 ~~D.~~ (4) Separate records of business written by the MGA shall be maintained.
12 The insurer shall have access and right to copy all accounts and records related to its
13 business in a form usable by the insurer, and the commissioner shall have access to
14 all books, bank accounts, and records of the MGA in a form usable to the
15 commissioner. Such records shall be retained pursuant to rules and regulations
16 promulgated by the commissioner.

17 ~~E.~~ The contract may not be assigned in whole or part by the MGA.

18 ~~F.~~ (5) Appropriate underwriting guidelines including:

19 ~~(1)~~ (a) The maximum annual premium volume.

20 ~~(2)~~ (b) The basis of the rates to be charged.

21 ~~(3)~~ (c) The types of risks which may be written.

22 ~~(4)~~ (d) Maximum limits of liability.

23 ~~(5)~~ (e) Applicable exclusions.

24 ~~(6)~~ (f) Territorial limitations.

25 ~~(7)~~ (g) Policy cancellation provisions.

26 ~~(8)~~ (h) The maximum policy period.

27 ~~G.~~ (6) The insurer shall have the right to cancel or nonrenew any policy of
28 insurance pursuant to the laws and regulations applicable thereto.

1 H: (7) If the contract permits the MGA to settle claims on behalf of the
2 insurer:

3 ~~(1)~~ (a) All claims shall be reported to the ~~company~~ insurer in a timely
4 manner.

5 ~~(2)~~ (b) A copy of the claim file shall be sent to the insurer at its request or
6 as soon as it becomes known that the claim:

7 ~~(a)~~ (i) Has the potential to exceed an amount determined by the
8 commissioner or exceeds the limit set by the company, whichever is less;

9 ~~(b)~~ (ii) Involves a coverage dispute;

10 ~~(c)~~ (iii) May exceed the MGA's claims settlement authority;

11 ~~(d)~~ (iv) Is open for more than six months; or

12 ~~(e)~~ (v) Is closed by payment of an amount set by the commissioner or an
13 amount set by the ~~company~~, insurer, whichever is less.

14 ~~(3)~~ (c) All claim files shall be the joint property of the insurer and MGA.
15 However, upon an order of liquidation of the insurer, files shall become the sole
16 property of the insurer or its estate. The MGA shall have reasonable access to and
17 the right to copy the files on a timely basis.

18 ~~(4)~~ (d) Any settlement authority granted to the MGA may be terminated for
19 cause upon the insurer's written notice to the MGA or upon the termination of the
20 contract. The insurer may suspend the settlement authority during the pendency of
21 any dispute regarding the cause for termination.

22 H: (8) When electronic claims files are in existence, the contract shall address
23 the timely transmission of the data.

24 J: (9) If the contract provides for a sharing of interim profits by the MGA,
25 and the MGA has the authority to determine the amount of the interim profits by
26 establishing loss reserves, controlling claim payments, or in any other manner,
27 interim profits shall not be paid to the MGA until one year after they are earned for
28 property insurance business and five years after they are earned for casualty business
29 and not until the profits have been verified pursuant to R.S. 22:1625 of this Part.

1 ~~K. B.~~ The MGA shall not:

(1) Bind reinsurance or retrocessions on behalf of the insurer, except that the MGA may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for reinsurance both assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

8 (2) Commit the insurer to participate in insurance or reinsurance syndicates.

9 (3) Appoint any producer without assuring that the producer is lawfully
10 licensed to transact the type of insurance for which he is appointed.

(4) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December thirty-first of the last completed calendar year.

(5) Collect any payment from a reinsurer or commit the insurer to any claims settlement with a reinsurer, without prior approval of the insurer. If prior approval is given, a report shall be promptly forwarded to the insurer.

18 (6) Permit its subproducer to serve on its board of directors.

19 (7) Appoint a sub-MGA.

20 (8) Jointly employ an individual who is employed with the insurer.

21 §1625. Duties of insurers

22 A. If an insurer has an MGA who writes more than five percent of its
23 policyholder surplus, then the insurer shall provide financial data by an independent
24 examiner concerning that ~~company's~~ insurer's book of business which is in question
25 and is handled by that MGA upon request, and the insurer shall have on file an
26 independent financial examination, in a form acceptable to the commissioner, of
27 each MGA with which it has done business.

28 * * *

1 H. All such appointments shall remain in full force and effect until April
2 thirtieth of the following year unless:

3 (1) The producer license of the MGA is revoked or suspended by the
4 commissioner as provided for in this Part or as prescribed in R.S. 22:1554.

5 (2) The insurer has cancelled the appointment upon written notice to the
6 ~~agent~~ producer and to the commissioner.

7 * * *

8 §1627. Penalties; suspension, revocation, fines, and liabilities

9 A. If the commissioner finds after a hearing conducted in accordance with
10 the Administrative Procedure Act, R.S. 49:950 et seq., that any person has violated
11 any provision of this Part, the commissioner may order:

12 * * *

13 (2) Revocation or suspension of the ~~producer's~~ producer license: ~~of the~~
14 MGA.

15 * * *

16 PART III. ~~THIRD-PARTY~~ THIRD-PARTY ADMINISTRATORS

17 §1641. Definitions

18 ~~The following terms shall have the following meanings:~~ As used in this Part,
19 unless the context requires otherwise, the following definitions shall be applicable:

20 (1) "Administrator" or "third-party administrator" or "TPA" means any
21 ~~individual, partnership, corporation, or other~~ person, except an employee of a fund
22 or plan that serves as an administrator, who directly or indirectly solicits or effects
23 coverage of, underwrites, collects charges or premiums from, or adjusts or settles
24 claims on residents of this state, or residents of another state from offices in this
25 state, in connection with life or health insurance coverage or annuities, or plans of
26 self-insurance providing accident and health protection or self-insurance of workers'
27 compensation coverage, or any individual, partnership, corporation, or other person
28 who contracts directly or indirectly with a group self-insurance fund licensed
29 pursuant to the provisions of R.S. 23:1195 et seq. to provide claims adjusting,

underwriting, safety engineering, loss control, marketing, investment advisory, or administrative services to the fund or its membership, other than bookkeeping, auditing, or claims investigation services, except any of the following:

* * *

(c) An ~~agent or broker~~ insurance producer licensed to sell life or health insurance in this state, whose activities are limited exclusively to the sale of insurance.

* * *

(g) A credit union or a financial institution which is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance ~~agents~~ producers or authorized insurers in connection with loan payments.

* * *

(j) A person who acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974: (29 U.S.C. 1001 et seq.).

* * *

(4) "Control" ~~as~~ means as defined in R.S. 22:692.

* * *

(7) "Person" shall have the same meaning as set forth in R.S. 22:1542.

(8) "Pharmacy benefit manager" means a person, business, or other entity and any wholly or partially owned or controlled subsidiary of such entity that administers the prescription drug or device portion of one or more health benefit plans on behalf of a third party, including plan sponsors, insurance companies, unions, and health maintenance organizations, in accordance with a pharmacy benefit management plan.

~~(7)~~ (9) "Underwrites" or "underwriting" means but is not limited to the acceptance of employer or individual applications for coverage of individuals in

1 accordance with the written rules of the insurer, the overall planning and
2 coordinating of an insurance program, and the ability to procure bonds and excess
3 insurance.

4 §1642. Necessity of written agreement

5 A. No administrator shall act as such without a written agreement between
6 the administrator and the insurer and such written agreement shall be retained as part
7 of the official records of both the insurer and the administrator for the duration of the
8 agreement and for five years thereafter. The agreement shall contain all provisions
9 required by this statute, ~~except insofar as~~ unless those requirements do not apply to
10 the functions performed by the administrator.

11 * * *

12 C. The insurer or administrator may, with written notice, terminate the written
13 agreement for cause as provided in the agreement. The insurer may suspend the
14 underwriting authority of the administrator ~~during the pendency of~~ while any dispute
15 regarding the cause for termination of the written agreement: is pending. The insurer
16 must fulfill any lawful obligations with respect to policies affected by the written
17 agreement, regardless of any dispute between the insurer and the administrator.

18 * * *

19 §1644. Maintenance of information

20 * * *

21 D. In the event the insurer and the administrator cancel their agreement,
22 notwithstanding the provisions ~~herein~~, in this Part, the administrator may transfer all
23 records to the insurer or a succeeding administrator selected by the insurer and
24 licensed in the state, rather than retain them for five years. In the event of a
25 cancellation under this Subsection, the succeeding administrator or the insurer shall
26 acknowledge and agree, in writing, that the administrator or insurer shall be
27 responsible for retaining the records of the prior administrator as required ~~herein~~. in
28 this Part.

29 * * *

1 §1651. Licensure required

2 * * *

3 B. Applicants under this Section shall pay a licensing fee in an amount set
4 forth in R.S. 22:821 and shall make an application to the commissioner upon a form
5 to be furnished by the commissioner. The application shall include or be
6 accompanied by the following information and documents:

7 * * *

8 (6) If the applicant will be managing the solicitation of new or renewal
9 business, proof that it employs or has contracted with an ~~agent~~ insurance producer
10 licensed by this state for solicitation and taking of applications. Any applicant who
11 intends to directly solicit insurance contracts or to otherwise act as an insurance ~~agent~~
12 producer ~~must~~ shall provide proof that he has a license as an insurance ~~agent~~ producer
13 in this state.

14 * * *

15 D. The commissioner may refuse to issue a license if the commissioner
16 determines that the administrator, or any individual responsible for the conduct of
17 affairs of the administrator as defined ~~herein~~, in this Part, is not competent,
18 trustworthy, financially responsible or of good personal and business reputation, or
19 has had an insurance or an administrator license denied or revoked for cause by any
20 state.

21 * * *

22 H. A licensed administrator shall notify the commissioner of any material
23 change in fact or circumstance affecting its qualification for a license in this state
24 within sixty days of the effective date of the change. The notice shall include any
25 documentation as the commissioner may require. Changes in fact or circumstances
26 shall include:

27 (1) Changes in control, ~~as defined in R.S. 22:692(3)~~.

28 * * *

1 I.(1) A licensed administrator shall maintain and keep in full force and effect
2 a surety bond in an amount of one hundred thousand dollars issued by an authorized
3 surety company doing business in this state, or deposit with the commissioner a
4 safekeeping or trust receipt from a bank doing business in the state or from a savings
5 and loan association chartered to do business in this state indicating that the
6 administrator has deposited one hundred thousand dollars in money, or bonds of the
7 United States, the state of Louisiana, or any political subdivision thereof of the par
8 value of one hundred thousand dollars. The surety bond or the money or the
9 securities shall be held in trust for the benefit and protection of and as security for all
10 policyholders of the insurer and participants of the plan with whom the administrator
11 contracts. The provisions of this Paragraph shall not apply to administrators required
12 to post a surety bond in accordance with provisions of R.S. 23:1196(C)(1), in
13 providing services for a group self-insurance fund for workers' compensation
14 insurance.

15 * * *

16 §1652. Waiver of application for certification

17 Upon request from an administrator, the commissioner may waive the
18 application requirements ~~herein in this Part~~ if the administrator has a valid license as
19 an administrator issued in a state which has standards for administrators that are at
20 least as stringent as those contained in the model statute for third-party administrators
21 of the National Association of Insurance Commissioners.

22 * * *

23 §1654. Grounds for suspension or revocation of license

24 A. ~~The license of an administrator shall be suspended or revoked, or in lieu~~
25 ~~of said revocation, a fine may be imposed for each separate violation, not to exceed~~
26 ~~five thousand dollars per violation, or twenty-five thousand dollars in the aggregate,~~
27 ~~if the commissioner finds that the administrator:~~ The commissioner shall suspend or
28 revoke, or in lieu of revocation, impose a fine for each separate violation not to

exceed five thousand dollars per violation or twenty-five thousand dollars in the aggregate if he shall fine that the administrator:

* * *

C. The commissioner may, in his ~~or her~~ discretion and without advance notice or hearing thereon, immediately suspend the certificate of any administrator if the commissioner finds that either of the following circumstances exist:

* * *

§1657. Pharmacy benefit managers

~~A. "Pharmacy benefit manager" means a person, business, or other entity and any wholly or partially owned or controlled subsidiary of such entity that administers the prescription drug or device portion of one or more health benefit plans on behalf of a third party, including plan sponsors, insurance companies, unions, and health maintenance organizations, in accordance with a pharmacy benefit management plan.~~

~~B.~~ A pharmacy benefit manager shall be deemed to be a third-party administrator for purposes of this Part. As such, all provisions of this Part shall apply to pharmacy benefit managers; however, notwithstanding the provisions of R.S. 22:1651(F), every pharmacy benefit manager shall be required to be licensed by the commissioner of insurance, ~~except if exempted pursuant to R.S. 22:1651(G).~~

* * *

§1662. General exemptions

This Part does not apply to:

* * *

(6)(a) An individual who collects claim information from, or furnishes claim information to, ~~insured~~ insureds or claimants, who conducts data entry including entering data into an automated claims adjudication system ~~provided if~~ if such individual is an employee of a business entity licensed pursuant to this Chapter, or an employee of an affiliate of a business entity licensed pursuant to the Chapter, if there are no more than twenty-five individuals under the supervision of one licensed individual adjuster or licensed individual insurance producer. As used in this Part,

1 "automated claims adjudication system" means a preprogrammed computer system
2 designed for the collection, data entry, calculation and system generated final
3 resolution of consumer electronic products insurance claims which:

4 * * *

5 (14) A person handling commercial claims for excess coverages as classified
6 by R.S. 22:47~~(14)~~.

7 * * *

8 §1664. Application for claims adjuster license

9 A. ~~Beginning June 30, 2007, any~~ Any person who is either employed or
10 contracts to perform services in Louisiana as an adjuster shall obtain a license to do
11 so from the Department of Insurance. A person applying for a claims adjuster license
12 shall make application to the commissioner of insurance on the appropriate uniform
13 application or other application ~~prescribed~~ required by the commissioner of
14 insurance.

15 * * *

16 C.

17 * * *

18 (2) All business entities applying to do business as independent adjusting
19 companies ~~must~~ shall provide a listing of all executive officers and directors of the
20 applicant and of all executive officers and directors of entities owning and any
21 individuals owning, directly or indirectly, ten percent or more of the outstanding
22 voting securities of the applicant. In order to make a determination of eligibility, the
23 commissioner may require any person listed ~~above~~ in this Paragraph to submit
24 addresses, social security numbers, criminal and administrative history, fingerprints,
25 background checks, and biographical statements.

26 * * *

27 §1665. Resident license

28 A. Before issuing a claims adjuster license to an applicant ~~under~~ pursuant to
29 this Section, the commissioner of insurance shall find that the applicant:

1 (1) Is eligible to designate this state as his ~~or her~~ home state or is a
2 nonresident who is not eligible for a license ~~under~~ pursuant to R.S. 22:1670.

3 * * *

4 §1669. Exemptions from examination

5 A. An individual who applies for a claims adjuster license in this state who
6 was previously licensed as a claims adjuster in another state based on a claims
7 adjuster examination shall not be required to complete ~~any prelicensing or an~~
8 examination. This exemption is only available if the person is currently licensed in
9 that state or if the application is received within twelve months of the cancellation of
10 the applicant's previous claims adjuster license and if the prior state issues a
11 certification that, at the time of cancellation, the applicant was in good standing in
12 that state or the state's producer database records or records maintained by the
13 National Association of Insurance Commissioners (NAIC), its affiliates, or
14 subsidiaries, indicate that the adjuster is or was licensed in good standing.

15 B. An individual licensed as a claims adjuster in another state based on a
16 claims adjuster examination who moves to this state shall make application within
17 ninety days of establishing legal residence to become a resident claims adjuster
18 licensee pursuant to R.S. 22:1665. No ~~prelicensing or~~ examination shall be required
19 of that person to obtain a claims adjuster license.

20 ~~C. Repealed by Acts 2010, No. 1007, §2.~~

21 ~~D:~~ C. An individual who applies for a claims adjuster license in this state who
22 was previously licensed as a claims adjuster in this state shall not be required to
23 complete ~~any prelicensing or an~~ examination. This exemption is only available if the
24 application is received within twelve months of the cancellation of the applicant's
25 previous claims adjuster license in this state and if, at the time of cancellation, the
26 applicant was in good standing in this state, and had passed the examination required
27 by R.S. 22:1668.

1 §1670. Nonresident claims adjuster license reciprocity

2 A. Unless denied licensure pursuant to R.S. 22:1672, a nonresident person
3 may receive a nonresident claims adjuster license upon complying with the following
4 requirements:

5 * * *

6 (2) The person has submitted the proper ~~request for licensure along with the~~
7 fees required by R.S.22:821.

8 * * *

9 D. As a condition to continuation of a nonresident claims adjuster license
10 issued ~~under~~ pursuant to this Section, the nonresident claims adjuster licensee shall
11 maintain a resident adjuster license in their home state. The nonresident claims
12 adjuster license issued ~~under~~ pursuant to this Section shall terminate and be
13 surrendered immediately to the commissioner of insurance if the home state claims
14 adjuster license terminates for any reason, unless the claims adjuster has been issued
15 a license as a resident claims adjuster in their new home state. Notification to the
16 state or states where a nonresident license is issued ~~must~~ shall be made as soon as
17 possible, yet no later than thirty days of change in the new state resident license.
18 ~~Licensee~~ The licensee shall include the new and old his current and prior address. A
19 ~~new state resident license is required for nonresident licenses to remain valid. The~~
20 ~~new state resident license must have reciprocity with this state for the nonresident~~
21 ~~license not to terminate. The new home state shall comply with the provisions of~~
22 Paragraph (A)(4) of this Section.

23 §1671. License

24 A. Unless denied licensure ~~under~~ pursuant to this Part, persons who have met
25 the requirements of this Part shall be issued a claims adjuster license. The license
26 shall contain the licensee's name, business address, ~~personal identification~~ license
27 number, date of issuance, expiration date, and any other information the
28 commissioner of insurance deems necessary.

1 B.

2 * * *

3 (2) Every licensed claims adjuster shall file an application for renewal of his
4 license every two years, by notifying the commissioner of insurance using methods
5 ~~prescribed~~ required by the commissioner of insurance, of the licensee's intention to
6 continue his license.

7 C. The licensee shall inform the commissioner of insurance by any means
8 acceptable to the commissioner of insurance of a change of address, change of legal
9 name, or change of information submitted on the application within thirty days of the
10 change. Failure to file a change within the required time shall subject the licensee to
11 a fifty dollar fine per violation, ~~or other fine as may be authorized by R.S. 22:821.~~
12 Any person against whom a penalty has been levied shall be given due notice of such
13 action. Upon receipt of this notice, the licensee may apply for and shall be entitled
14 to a hearing in accordance and compliance with Chapter 12 of this Title, R.S. 22:2191
15 et seq.

16 * * *

17 §1673. Continuing education

18 * * *

19 C. Only continuing education courses approved by the commissioner of
20 insurance shall be used to satisfy the continuing education requirement of Subsection
21 A: of this Section.

22 * * *

23 §1693. License required

24 A. ~~Beginning June 30, 2007, a~~ A person shall not act or hold himself out as
25 a public adjuster in this state unless the person is licensed as a public adjuster in
26 accordance with this Part.

27 * * *

§1694. Application for license

A. A person applying for a public adjuster license shall make application to the commissioner of insurance on the appropriate uniform application or other application ~~prescribed~~ required by the commissioner of insurance.

* * *

§1696. Examination

A. An individual applying for a public adjuster license ~~under~~ pursuant to this Part shall pass a written examination unless exempt pursuant to R.S. 22:1697, 1698, ~~and or~~ 1699. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this Section shall be developed and conducted ~~under~~ pursuant to rules and regulations prescribed by the commissioner of insurance.

* * *

§1697. Exemptions from examination

A. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any ~~prelicensing or~~ examination. This exemption is only available if the person is currently licensed in that state or if the application is received within twelve months of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.

B. An individual licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee pursuant to R.S. 22:1695. No ~~prelicensing or~~ examination shall be required of that person to obtain a public adjuster license.

1 C. An individual who applies for a public adjuster license in this state who
2 was previously licensed as a public adjuster in this state shall not be required to
3 complete any ~~prelicensing or~~ examination. This exemption is only available if the
4 application is received within twelve months of the cancellation of the applicant's
5 previous license in this state and if, at the time of cancellation, the applicant was in
6 good standing in this state.

7 §1698. Nonresident license reciprocity

8 A. Unless denied licensure pursuant to R.S. 22:1700, a nonresident person
9 may receive a nonresident public adjuster license if:

10 * * *

11 (2) The person has ~~submitted the proper request for licensure, has paid the~~
12 fees required by R.S. 22:821; and has provided proof of financial responsibility as
13 required in R.S. 22:1701.

14 * * *

15 D. As a condition to continuation of a public adjuster license issued ~~under~~
16 pursuant to this Section, the licensee shall maintain a resident public adjuster license
17 in his home state. The nonresident public adjuster license issued ~~under~~ pursuant to
18 this Section shall terminate and be surrendered immediately to the commissioner of
19 insurance if the home state public adjuster license terminates for any reason, unless
20 the public adjuster has been issued a license as a resident public adjuster in his new
21 home state. Notification to the state or states where the nonresident license is issued
22 ~~must~~ shall be made as soon as possible, yet no later than thirty days of change in the
23 new state resident license. ~~Licensee~~ The licensee shall include his ~~new~~ current and
24 ~~old~~ prior address. ~~The new state resident license is required for the nonresident~~
25 ~~license to remain valid. The new state resident license must have reciprocity with this~~
26 ~~state for the nonresident license not to terminate. The new home state shall comply~~
27 with the provisions of Paragraph (A)(4) of this Section.

1 §1699. License

2 A.

3 * * *

4 (3) Every licensed public adjuster shall file an application for renewal of his
5 license every two years by notifying the commissioner of insurance, by methods
6 ~~prescribed~~ required by the commissioner of insurance, of the licensee's intention to
7 continue his license.

8 B. The licensee shall inform the commissioner of insurance by any means
9 acceptable to the commissioner of insurance of a change of address, change of legal
10 name, or change of information submitted on the application within thirty days of the
11 change. Failure to file a change within the required time shall result in the imposition
12 of a fifty dollar penalty per violation, ~~or as may be authorized by R.S. 22:821.~~ Any
13 person against whom a penalty has been levied shall be given due notice of such
14 action. Upon receipt of this notice, the licensee may apply for and shall be entitled
15 to a hearing in accordance and compliance with Chapter 12 of this Title, R.S. 22:2191
16 et seq.

17 * * *

18 F. The license shall contain the licensee's name, city, and state of business
19 address, ~~personal identification~~ license number, the date of issuance, the expiration
20 date, and any other information the commissioner of insurance deems necessary.

21 * * *

22 §1704. Contract between public adjuster and insured

23 * * *

24 E. Prior to the signing of the contract, the public adjuster shall provide the
25 insured with a separate disclosure document regarding the claim process that states:

26 (1) Property insurance policies obligate the insured to present a claim to his
27 insurance company for consideration. There are three types of adjusters that could
28 be involved in that process. The definitions of the three types are as follows:

(a) "Company adjusters" means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. ~~The company adjuster~~ Company adjusters shall not charge ~~the insured~~ insureds a fee.

(b) "Independent adjusters" means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company's interest. They are paid by your insurance company. ~~The independent adjuster~~ Independent adjusters shall not charge ~~the insured~~ insureds a fee.

* * *

§1706. Standards of conduct of public adjuster

* * *

F. A public adjuster shall not solicit employment for or otherwise solicit engagement, directly or indirectly, for or on behalf of any attorney at law, contractor, or subcontractor, in connection with any loss or damage with respect to which such adjuster is concerned or employed. Nothing ~~herein~~ in this Part shall be interpreted to prevent a public adjuster from recommending a particular attorney, contractor or subcontractor; however, the public adjuster is prohibited from collecting any fee, compensation, or thing of value for such referral.

* * *

§1722. Definitions

As used in this Part:

(1) "Actuary" shall mean a person who is a member in good standing of the American Academy of Actuaries.

(2) "Business entity" shall mean a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

~~(2) (3)~~ (3) "Controlling person" shall mean any person, ~~firm, association, or corporation~~ who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

(4) "Individual" shall mean a natural person.

1 ~~(3) (5)~~ "Insurer" shall mean any ~~person, firm, association, or corporation~~ duly
2 licensed in this state, pursuant to the applicable provisions of the Louisiana Insurance
3 ~~this Code, as an insurer.~~ authorized insurer as defined in R.S. 22:46.

4 ~~(4) (6)~~ "Licensed producer" shall mean ~~an agent, broker, or a person licensed~~
5 as an insurance producer pursuant to the provisions of Subpart A of Part I of this
6 Chapter, R.S. 22:1541 et seq., or a person licensed as a reinsurance intermediary-
7 broker licensed pursuant to ~~the applicable provisions of the Louisiana Insurance Code.~~
8 this Part.

9 (7) "Person" shall mean an individual or business entity.

10 ~~(5) (8)~~ "Reinsurance intermediary" shall mean a reinsurance intermediary-
11 broker or a reinsurance intermediary-manager, ~~as these terms are defined in~~
12 ~~Paragraphs (6) and (7) of this Section.~~

13 ~~(6) (9)~~ "Reinsurance intermediary-broker" shall mean any person, other than
14 an officer or employee of the ceding insurer, who solicits, negotiates, or places
15 reinsurance cessions or retrocessions on behalf of a ceding insurer without the
16 authority or power to bind reinsurance on behalf of such insurer.

17 ~~(7) (10)~~ "Reinsurance intermediary-manager" shall mean any person, ~~firm,~~
18 ~~association, or corporation~~ who has authority to bind or manages all or part of the
19 assumed reinsurance business of a reinsurer, including the management of a separate
20 division, department or underwriting office, and acts as an agent for such reinsurer,
21 whether known as a reinsurance intermediary-manager, manager, or other similar
22 term. Notwithstanding ~~the above,~~ any previous provision of this Section, the
23 following persons shall not be considered a reinsurance intermediary-manager, with
24 respect to such reinsurer, for the purposes of this Part:

25 (a) An employee of the reinsurer.

26 (b) A United States manager of the United States branch of an alien reinsurer.

27 (c) An underwriting manager which, pursuant to contract, manages all the
28 reinsurance operations of the reinsurer, is under common control with the reinsurer,

subject to the Insurance Holding Company System Regulatory Law, R.S. 22:691 et seq., and whose compensation is not based on the volume of premiums written.

(d) The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the state in which the manager's principal business office is located.

~~(8) (11)~~ "Reinsurer" shall mean any person, ~~firm, association, or corporation~~ duly licensed in this state, pursuant to the applicable provisions of ~~the Louisiana Insurance Code~~ this Code, as an insurer with the authority to assume reinsurance.

~~(9) (12)~~ "Qualified United States financial ~~institutions~~" institution shall, for purposes of this Part, mean an institution that:

(a) Is organized or licensed under the laws of the United States or any state thereof.

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(c) Has been determined by either the commissioner of insurance or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

~~(10) (13)~~ "To be in violation" shall mean that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this Part.

§1723. Licensure

A. No person, ~~firm, association, or corporation~~ shall act as a reinsurance intermediary-broker in this state if the reinsurance intermediary-broker maintains an office either directly or as a member, officer, director, or employee of a ~~firm or association, or as an officer, director, or employee of a corporation~~: business entity:

* * *

1 B. No person, ~~firm, association, or corporation~~ shall act as a reinsurance
2 intermediary-manager:

3 * * *

4 (2) In this state, if the reinsurance intermediary-manager maintains an office
5 either directly or as a member, officer, director, or employee of a ~~firm or association,~~
6 ~~or as an officer, director, or employee of a corporation~~ business entity in this state,
7 unless such reinsurance intermediary-manager is a licensed producer in this state.

8 * * *

9 D.(1) The commissioner may issue a reinsurance intermediary license to any
10 person, ~~firm, association, or corporation~~ who has complied with the requirements of
11 this Part. Any such license issued to a ~~firm or association~~ business entity will
12 authorize all the members, officers, and designated employers and directors of the
13 ~~firm or association and any designated employees~~ business entity to act as reinsurance
14 intermediaries under the license, and all such persons shall be named in the
15 application and any supplements thereto. ~~Any license issued to a corporation shall~~
16 ~~authorize all of the officers, and any designated employees and directors thereof to~~
17 ~~act as reinsurance intermediaries on behalf of such corporation, and all such persons~~
18 ~~shall be named in the application and any supplements thereto.~~

19 (2) If the applicant for a reinsurance intermediary license is a nonresident, the
20 applicant, as a condition precedent to receiving or holding a license, shall designate
21 the commissioner as agent for service of process ~~in the manner, and with the same~~
22 ~~legal effect, provided for by this Part for designation of service of process upon~~
23 ~~unauthorized insurers, and shall furnish the commissioner with the name and address~~
24 ~~of a resident of this state upon whom notices or orders of the commissioner or process~~
25 ~~affecting such nonresident reinsurance intermediary may be served. The licensee~~
26 ~~shall promptly notify the commissioner, in writing, of every change in its designated~~
27 ~~agent for service of process, and such change shall not become effective until~~
28 ~~acknowledged by the commissioner.~~

29 * * *

1 F. Licensed attorneys at law of this state, when acting in their professional
2 capacity as such, shall be exempt from this ~~Section~~ Part.

3 §1724. Required contract provisions for reinsurance intermediary-brokers

4 Any transactions between a reinsurance intermediary-broker and the insurer
5 the broker represents in such capacity shall only be entered into pursuant to a written
6 authorization, specifying the responsibilities of each party. The authorization shall,
7 at a minimum, provide that:

8 * * *

9 (5) The reinsurance intermediary-broker ~~will~~ shall comply with the written
10 standards established by the insurer for the cession or retrocession of all risks.

11 * * *

12 §1726. Duties of insurers utilizing the services of a reinsurance intermediary-broker

13 A. An insurer shall not engage the services of any person, ~~firm, association,~~
14 ~~or corporation~~ to act as a reinsurance intermediary-broker on its behalf, unless such
15 person is licensed as required by R.S. 22:1723(A).

16 B. An insurer may not employ an individual who is employed by a
17 reinsurance intermediary-broker with which it transacts business, unless such
18 reinsurance intermediary-broker is under common control with the insurer and subject
19 to the Insurance Holding Company System Regulatory Law, R.S. 22:691 et seq.

20 * * *

21 §1727. Required contract provisions for reinsurance intermediary-managers

22 A. Any transactions between a reinsurance intermediary-manager and the
23 reinsurer represented in its capacity shall only be entered into pursuant to a written
24 contract, specifying the responsibilities of each party, which shall be approved by the
25 board of directors of the reinsurer. At least thirty days before the reinsurer assumes
26 or cedes business through the producer, a true copy of the approved contract shall be
27 filed with the commissioner for approval. The contract shall, at a minimum, provide
28 that:

1 (1) The reinsurer may terminate the contract for cause upon written notice to
2 the reinsurance intermediary-manager. The reinsurer may immediately suspend the
3 authority of the reinsurance intermediary-manager to assume or cede business ~~during~~
4 ~~the pendency of~~ while any dispute regarding the cause for termination: is pending.

5 (2) The reinsurance intermediary-manager ~~will~~ shall render accounts to the
6 reinsurer accurately detailing all material transactions, including information
7 necessary to support all commissions, charges, and other fees received by, or owing
8 to the reinsurance intermediary-manager, and remit all funds due under the contract
9 to the reinsurer at least monthly.

10 (3) All funds collected for the account of the reinsurer ~~will~~ shall be held by
11 the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a
12 qualified United States financial institution as defined herein. The reinsurance
13 intermediary-manager may retain no more than three months estimated claims
14 payments and allocated loss adjustment expenses. The reinsurance intermediary-
15 manager shall maintain a separate bank account for each reinsurer that it represents.

16 (4) For at least ten years after expiration of each contract of reinsurance
17 transacted by the reinsurance intermediary-manager, the reinsurance intermediary-
18 manager ~~will~~ shall keep a complete record for each transaction showing:

19 * * *

20 (7) The reinsurance intermediary-manager ~~will~~ shall comply with the written
21 underwriting and rating standards established by the insurer for the acceptance,
22 rejection, or cession of all risks.

23 (8) ~~Sets~~ The contract sets forth the rates, terms, and purposes of commissions,
24 charges, and other fees which the reinsurance intermediary-manager may levy against
25 the reinsurer.

26 B. If the contract permits the reinsurance intermediary-manager to settle
27 claims on behalf of the reinsurer:

28 * * *

1 (4) Any settlement authority granted to the reinsurance intermediary-manager
2 may be terminated for cause upon the written notice by the reinsurer to the
3 reinsurance intermediary-manager or upon the termination of the contract. The
4 reinsurer may suspend such settlement authority ~~during the pendency of the~~ while any
5 dispute regarding the cause of termination: is pending.

6 C. If the contract provides for a sharing of interim profits by the reinsurance
7 intermediary-manager, that such interim profits ~~will~~ shall not be paid until one year
8 after the end of each underwriting period for property business and five years after the
9 end of each underwriting period for casualty business, or for such longer period as
10 may be specified by the commissioner, and not until the adequacy of reserves on
11 remaining claims has been verified pursuant to R.S. 22:1729(C).

12 * * *

13 F. The reinsurance intermediary-manager ~~will~~ shall disclose to the reinsurer
14 any relationship it has with any insurer prior to ceding or assuming any business with
15 the insurer pursuant to the contract.

16 * * *

17 §1728. Prohibited acts

18 The reinsurance intermediary-manager shall not:

19 * * *

20 (6) Jointly employ an individual who is employed by the reinsurer, unless
21 such reinsurance intermediary-manager is under common control with the reinsurer
22 subject to the Insurance Holding Company System Regulatory Law, R.S. 22:691 et
23 seq.

24 * * *

§1729. Duties of reinsurers utilizing the services of a reinsurance intermediary-manager

A. A reinsurer shall not engage the services of any person, ~~firm, association, or corporation~~ to act as a reinsurance intermediary-manager on its behalf unless such person is licensed as required by R.S. 22:1723(B).

* * *

F. A reinsurer shall not appoint to its board of directors any officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary-manager. This Subsection shall not apply to relationships governed by the Insurance Holding Company System Regulatory Law, R.S. 22:691 et seq. or, if applicable, the Business Transacted with ~~Broker~~ Producer Controlled Insurer Law, R.S. 22:551 et seq.

* * *

§1731. Penalties and liabilities

A. Any reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a public hearing, to be in violation of any provision of this Part, shall:

* * *

(2) Be subject to revocation or suspension of its license: or certificate of authority.

* * *

§1741. Purpose

The purpose of this Part is to provide for professional employment services by defining such services, requiring registration of persons ~~or entities~~ providing such services, providing for employee benefits plans and workers' compensation coverage for participants of such services, and providing for enforcement of this Part.

* * *

1 §1747. Licensure

2 Every PEO engaged in the business of soliciting, selling, or negotiating
3 policies of insurance shall be properly licensed in accordance with this Title. The
4 PEO shall not hold itself out as an insurer; ~~or insurance broker, or insurance agent,~~
5 producer; offer any insurance service; or conduct any business that is defined or
6 regulated in this Title unless appropriately licensed. No representative of a PEO shall
7 make any comparative analysis or render advice regarding any insurance policy or
8 coverage, including any health benefit plan or workers' compensation insurance,
9 during the solicitation or sale of a professional employer services agreement or
10 otherwise, unless properly licensed as an insurance ~~agent or insurance broker~~
11 producer in accordance with this Title.

12 * * *

13 §1761. Purpose

14 This Part is to govern the qualifications and procedures for the limited
15 licensing of motor vehicle rental or leasing companies to sell or offer insurance in
16 conjunction with the rental of a vehicle as provided in this Part. This Part shall
17 govern the transactions ~~covered in this Part~~ of selling travel or automobile-related
18 products or coverage in connection with and incidental to the rental of vehicles.

19 * * *

20 §1763. Limited licensing; fees

21 * * *

22 B. As a prerequisite for issuance of a limited license ~~under~~ pursuant to this
23 Part, there shall be filed with the commissioner a written application for a limited
24 license, ~~along with a five hundred dollar application fee~~, signed by an officer of the
25 applicant, in such form or forms, and supplements thereto, and containing such
26 information, as the commissioner may prescribe by rule or regulation. The application
27 shall be accompanied by such fee as provided by R.S. 22:821. Every limited licensee
28 shall, every two years, notify the commissioner of his intention to continue its license
29 on forms provided by the commissioner and shall submit a renewal fee ~~of two~~

1 ~~hundred fifty dollars. However, for a licensee who maintains twenty-five or less~~
2 ~~vehicles, the initial application fee shall be one hundred dollars and the renewal fee~~
3 ~~shall be fifty dollars. as provided by R.S. 22:821.~~

4 * * *

5 §1766. Authorized employees

6 * * *

7 C. The limited licensee shall keep a list of all persons who are authorized or
8 who are selling insurance as provided in this Part. The list shall be provided to the
9 commissioner within two weeks of written demand from the commissioner.

10 §1767. Insurance charges

11 Notwithstanding any other provision of this Part or any rule adopted by the
12 commissioner, a limited licensee pursuant to this Part shall not be required to treat
13 monies collected from renters purchasing such insurance when renting vehicles as
14 funds received in a fiduciary capacity, ~~provided that~~ if the charges for coverage shall
15 be itemized and be ancillary to a rental transaction. The sale of insurance not in
16 conjunction with a rental transaction is prohibited by the provisions of this Part.

17 §1768. Representations

18 No limited licensee ~~under~~ pursuant to this Part shall advertise, represent, or
19 otherwise hold itself or any of its employees or agents out as licensed insurers; or
20 ~~insurance agents, or insurance brokers.~~ producers.

21 Section 2. R.S. 22:1546(G) and (H), 1566, 1746(E), 1751, and 1769 are hereby
22 repealed in their entirety.

23 Section 3. The Louisiana State Law Institute is hereby directed to redesignate R.S.
24 22:937 as R.S. 22:917.

25 Section 4. This Act shall become effective on January 1, 2012.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Aubert

HB No. 283

Abstract: Provides for technical recodification of certain provisions of the La. Insurance Code relative to life insurance and annuities.

Proposed law makes numerous technical changes to present law, specifically certain provisions of the La. Insurance Code. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, harmonizing of inconsistent provisions, and consolidating all provisions authorizing fees into a single provision of law.

Proposed law further directs the LSLI to redesignate R.S. 22:937 as R.S. 22:917.

Effective Jan. 1, 2012.

(Amends R.S. 22:901(A), (B), (C)(1) and (3), and (D)(1)(intro. para.) and (a) and (2), 902, 904, 905, 906, 907, 910, 912(A), (B)(1), (C), (D)(1)(b), (E), and (F), 913, 914, 915(B), 931, 932(B)(intro. para.) and (1), (D)(intro. para.) and (2), and (E), 934, 935, 936(A)(1)(intro. para.) and (2), (B), (D)(1), (2), and (4), (E), (F)(1), (G)(1), (4), and (8)(intro. para.) and (b) and (d)-(g), (I)(1), (J)(1), (2), (3), and (5), (K)(1)(g) and (h), 941(B)(intro. para.) and (6), 942(intro. para.) and (1), (10)(b), and (11), 943(D)(2), 944(A), 951(A), 952(A)(2), (B)(intro. para.) and (4), and (J), 961, 1541, 1542(1), (4), (6), (9), (11), (14), and (18), 1544(B)(5)-(8) and (D), 1545(I)(1)(intro. para.), 1546(A)(3), (D)(4), and (F), 1547(A)(10), (C)(2), (D), (E), (G), (H), and (I)(3), 1548(A)(1) and (3), (B)(2) and (3)(b), (D)(2), and (E), 1549(B)(4) and (5), (C), (D), (E)(intro. para.), (F), and (H), 1550(A)(2), (B)(1) and (d) and (2), (C), (D), (E)(intro. para.), and (H), 1554(G), 1555, 1556(A), (B), and (C), 1557(B)(1) and (2), 1558(B)(3) and (4), (C), and (D), 1559(C), (D)(1), and (E)(1), 1562(C)(1)(b) and (d), (E)(2), and (H)(intro. para.) and (4), 1564(A)(2), (B)(1)(a), and (C), 1571, 1573(C)-(G), (I)(1)(a), (K), (L), and (M), 1574(A)-(D)(1), 1575(C)(2) and (D), 1583, the heading of R.S. 22:1584, 1585(C), 1591, 1592, 1593(A)(intro. para.) and (1), 1594(intro. para.), 1595, 1597, 1598(C), 1599(A) and (C)(intro. para.), 1600(B)(intro. para.), 1603(1) and (3), 1604(A)(2), 1605, 1622, 1623(A), (B), (D), and (F), 1624, 1625(A) and (H), 1627(A)(2), the heading of Part III of Chapter 5 of the Louisiana Revised Statutes of 1950, 1641(intro. para.), (1)(intro. para.), (c), (g), and (j), (4), and (7), 1642(A) and (C), 1644(D), 1651(B)(6), (D), (H)(1), and (I)(1), 1652, 1654(A)(intro. para.) and (C)(intro. para.), 1657, 1662(6)(a)(intro. para.) and (14), 1664(A) and (C)(2), 1665(A)(intro. para.) and (1), 1669, 1670(A)(2) and (D), 1671(A), (B)(2), and (C), 1673(C), 1693(A), 1694(A), 1696(A), 1697, 1698(A)(2) and (D), 1699(A)(3), (B), and (F), 1704(E)(1)(a) and (b), 1706(F), 1722, 1723(A)(intro. para.), (B)(intro. para.) and (2), (D), and (F), 1724(5), 1726(A) and (B), 1727(A)(1), (2), (3), (4)(intro. para.), (7), and (8), (B)(4), (C), and (F), 1728(6), 1729(A) and (F), 1731(A)(2), 1741, 1747, 1761, 1763(B), 1767, and 1768; Adds R.S. 22:821(B)(31), (32), and (33), 1557(C), 1641(8) and (9), and 1766(C); Repeals R.S. 22:1546(G) and (H), 1566, 1746(E), 1751, and 1769)