

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.

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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(introductory paragraph) and (5), 1726(A) and (B), 1727(A)(introductory
 12 paragraph), (1), (2), (3), (4)(introductory paragraph), (7), and (8), (B)(4), (C), and
 13 (F), 1728(6), 1729(A) and (F), 1731(A)(2), 1741, 1747, 1761, 1763(B), 1767, and
 14 1768; to enact R.S. 22:821(B)(31), (32), and (33), 1557(C), 1641(8) and (9), and
 15 1766(C); and to repeal R.S. 22:1546(G) and (H), 1566, 1746(E), 1751, and 1769, all
 16 relative to technical recodification of certain provisions of the Louisiana Insurance
 17 Code, including correction of citations, updates of terms and language,
 18 reorganization of provisions, elimination of obsolete or ineffective provisions,
 19 harmonizing of inconsistent provisions, and consolidating all provisions authorizing
 20 fees; and to provide for related matters.

21 Be it enacted by the Legislature of Louisiana:

22 Section 1. R.S. 22:901(A), (B), (C)(1) and (3), and (D)(1)(introductory paragraph)
 23 and (a) and (2), 902, 904, 905, 906, 907, 910, 912(A), (B)(1), (C), (D)(1)(b), (E), and (F),
 24 913, 914, 915(B), 931, 932(B)(introductory paragraph) and (1), (D)(introductory paragraph)
 25 and (2), and (E), 934, 935, 936(A)(1)(introductory paragraph) and (2), (B), (D)(1), (2), and
 26 (4), (E), (F)(1), (G)(1), (4), and (8)(introductory paragraph) and (b) and (d) through (g),
 27 (I)(1), (J)(1), (2), (3), and (5), (K)(1)(g) and (h), 941(B)(introductory paragraph) and (6),
 28 942(introductory paragraph) and (1), (10)(b), and (11), 943(D)(2), 944(A), 951(A),
 29 952(A)(2), (B)(introductory paragraph) and (4), and (J), 961, 1541, 1542(1), (4), (6), (9),
 30 (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(introductory paragraph)
 20 and (5), 1726(A) and (B), 1727(A)(introductory paragraph), (1), (2), (3), (4)(introductory
 21 paragraph), (7), and (8), (B)(4), (C), and (F), 1728(6), 1729(A) and (F), 1731(A)(2), 1741,
 22 1747, 1761, 1763(B), 1767, and 1768 are hereby amended and reenacted and R.S.
 23 22:821(B)(31), (32), and (33), 1557(C), 1641(8) and (9), and 1766(C) are hereby enacted to
 24 read as follows:

§821. Fees

* * *

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

* * *

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

3 (a) Initial application if registering twenty or fewer
4 employees \$ 250.00

5 (b) Initial application if registering twenty-one or more
6 employees \$ 1,000.00

7 (c) Annual renewal fee if registering twenty or fewer
8 employees \$ 125.00

9 (d) Annual renewal fee if registering twenty-one or more
10 employees \$ 500.00

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

13 (a) Initial application if registering twenty or fewer
14 employees \$ 250.00

15 (b) Initial application if registering twenty-one or more
16 employees \$ 1,000.00

17 (c) Fee for registration of employees, per employee up to
18 twenty-five hundred dollars \$ 20.00

19 (d) Annual renewal fee if registering twenty or fewer
20 employees \$ 125.00

21 (e) Annual renewal fee if registering twenty-one or more
22 employees \$ 500.00

23 (33) Motor vehicle rental insurers.

24 (a) Initial license application:
25 (i) Twenty-six or more vehicles \$ 500.00

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

27 (b) Renewal
28 (i) Twenty-six or more vehicles \$ 250.00

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

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

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

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

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

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

18 * * *

19 (3) ~~An individual, A~~ A person, ~~or entity heretofore or hereafter~~ party to an
20 agreement, contract, or option for the purchase or sale of a business or a firm or
21 immovable property owned by a business or firm, or an interest therein or of shares
22 of stock of a closed corporation or of an interest in such shares, has an insurable
23 interest in the life of each individual party to such agreement, contract, or option,
24 each individual shareholder of such closed corporation or each individual
25 shareholder of a corporation, individual partner of a partnership, or individual
26 member of a limited liability company owning such property, business, firm, or
27 shares of stock for the purposes of such agreement, contract, or option, only, in
28 addition to any insurable interest which may otherwise exist as to the life of such
29 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 the 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 ~~afornamed~~ 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 ~~afornamed~~ named beneficiaries
28 or owners shall have been designated beneficiaries in the policies, ~~said~~ the

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

3 * * *

4 §904. Ante-dating of life insurance policies prohibited

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

22 §905. Written notice required before lapsing life policies

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

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

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

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

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

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

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

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

25 §906. Mortality endowments prohibited

26 A. No life insurer, ~~(including industrial, service, non-profit nonprofit funeral~~
 27 associations, ~~and fraternal benefit societies),~~ shall be permitted to issue policies,
 28 certificates, or contracts to policyholders or members stipulating for the
 29 establishment of its policyholders or members into divisions and classes for the
 30 purpose of providing for the payment of benefits from special funds created for such

1 purpose to the oldest member of the division and class or to the member of the
2 division and class whose policy has been in force the longest period of time upon the
3 death of the member in such division and class, except as provided in Subsection B
4 of this Section.

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

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

20 * * *

21 §910. Life insurance and annuities; replacement

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

25 * * *

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

27 A.(1) The lawful beneficiary, assignee, or payee, including the insured's
28 estate, of a life insurance policy or endowment policy, ~~heretofore or hereafter~~
29 ~~effected~~ shall be entitled to the proceeds and avails of the policy against the creditors
30 and representatives of the insured and of the person effecting the policy or the estate

1 of either, and against the heirs and legatees of either ~~such~~ person, and such proceeds
 2 and avails shall also be exempt from all liability for any debt of ~~such~~ the beneficiary,
 3 payee, or assignee or estate, existing at the time the proceeds or avails are made
 4 available for his own use. For purposes of this Subsection, the proceeds and avails
 5 of the policy include the cash surrender value of the policy.

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

25 B.(1) The lawful beneficiary, assignee, or payee, including the annuitant's
 26 estate, of an annuity contract, ~~heretofore or hereafter effected~~, shall be entitled to the
 27 proceeds and avails of the contract against the creditors and representatives of the
 28 annuitant or the person effecting the contract, or the estate of either, and against the
 29 heirs and legatees of either ~~such~~ person, saving the rights of forced heirs, and ~~such~~
 30 the proceeds and avails shall also be exempt from all liability for any debt of ~~such~~

1 heir, or heirs of the insured or annuitant decedent shall be entitled to the proceeds of
2 ~~such~~ the policies or contracts according to the laws of distribution affecting the
3 succession of the decedent even though they have renounced his succession with the
4 same effect as if ~~said~~ the renunciation had not taken place.

5 §914. Requirements of variable life and variable annuities

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

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

20 * * *

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

25 * * *

26 §931. Life insurance policies; standard provisions

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

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

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

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

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

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

28 (6) Nonforfeiture options. A provision in accordance with R.S. 22:934
29 through 936 specifying the options, if any, available under the policy in the event of
30 default in a premium payment; ~~Provided, however,~~ however, the mortality table and

1 rate of interest used as a basis for the calculation of ~~such~~ the options shall be
2 designated by the policy.

3 (7) Policy loan. A provision that when the policy has a loan value, the
4 insurer issuing it shall advance at the option of the person entitled thereto, a sum
5 equal to or less than the cash surrender value of the policy at the end of the current
6 policy year computed in accordance with the provisions of this Subpart, at any time
7 while the policy is in force, on proper assignment or pledge of the policy or with the
8 policy as security at a specified rate of interest not exceeding eight ~~per centum~~
9 percent per annum on policy contracts in effect prior to September 10, 1982, or in
10 accordance with the provisions of R.S. 22:932 on policy contracts in effect on or
11 after September 10, 1982. The interest shall be compounded annually payable in
12 advance. The policy shall also contain a provision that the insurer may deduct from
13 ~~such~~ the loan value, in addition to the indebtedness deducted in determining such
14 value, any unpaid balance of the premium for the current policy year. The policy
15 shall also contain a provision that, if the loan is made or repaid on a date other than
16 the anniversary of the policy, the insurer may collect interest for the portion of the
17 current policy year on a pro rata basis at the rate of interest specified in the policy.
18 The policy may further provide that interest on the loan may be compounded
19 annually and, if not paid when due, it shall be added to the existing loan and shall
20 bear interest at the same rate. The policy may further provide that, if and when the
21 total indebtedness on the policy, including interest due or accrued, equals, or exceeds
22 the amount of the loan value thereof at such time, and if at least thirty days prior
23 notice has been given in the manner provided in R.S. 22:905, then the policy shall
24 terminate and become void. The insurer may provide in the policy that the making
25 of any such loan, except when made to pay premiums, may be deferred for a period
26 not to exceed six months after the application therefor has been received by it. The
27 provision shall not apply to term policies of twenty years or less.

28 (8) Nonforfeiture benefits. A provision specifying the basis used in
29 determining ~~non-forfeiture~~ nonforfeiture benefits. In case the proceeds of the policy

1 are payable in installments or as an annuity, a table showing the amounts of the
2 installments or annuity payments.

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

11 (10) Free look period. (a) A provision, prominently printed on the life
12 insurance policy or attached thereto, notifying the insured that ten days are allowed,
13 from the date of his receipt of the policy, to examine its provisions. If the policy is
14 not as explained by the company, its representative, or as understood by the insured,
15 the policy may be surrendered within ~~said~~ the ten-day period, and any premium
16 advanced by the insured, upon the surrender, shall be immediately returned to him.
17 The insurer shall have the option of printing, attaching, or endorsing the notice ~~above~~
18 required in this Subparagraph or a notice of equal prominence which, in the opinion
19 of the commissioner of insurance, is not less favorable to the policyholder. This
20 ~~Paragraph~~ Subparagraph shall not apply to ~~trip~~-travel insurance policies which by
21 their terms are not renewable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 ~~(a) the (i)~~ The amount specified in ~~the preceding paragraph; or Paragraph (2)~~
 14 of this Subsection.

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

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

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

29 C. Any of the ~~foregoing~~ provisions or portions thereof of this Section not
 30 applicable to single premium or ~~non-participating~~ nonparticipating or term policies;

1 shall to that extent not be incorporated therein. The provisions of this Section shall
2 not apply to policies of industrial life insurance, service insurance, or to policies of
3 group life insurance.

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

8 §932. Maximum rate of interest on policy loans

9 * * *

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

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

14 * * *

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

19 * * *

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

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

1 ~~company and after deducting one-fifth of the said entire reserve or the sum of two~~
2 ~~and fifty-one hundredths dollars for each one hundred dollars of the face of said~~
3 ~~policy if said sum shall be more than the said one-fifth, shall upon demand, with~~
4 ~~surrender of the policy, be applied as a surrender value as agreed upon in the policy;~~
5 ~~provided that, if no other option expressed in the policy be availed of by the owner~~
6 ~~thereof, the policy shall provide for said value to be applied to the automatic option~~
7 ~~shown in the policy which automatic option shall be one of the following, either to~~
8 ~~purchase upon the same life, at the attained age, paid-up insurance, payable at the~~
9 ~~same time, and under the same conditions, except as to the payment of premiums,~~
10 ~~as the original policy, or to continue the insurance in force at its full amount,~~
11 ~~including any outstanding dividend additions, less any outstanding indebtedness on~~
12 ~~the policy, so long as such surrender value will purchase nonparticipating temporary~~
13 ~~insurance at net single premium rates by the standard adopted by the insurer, at the~~
14 ~~age of the insured at the time of lapse or forfeiture, provided that in case of any~~
15 ~~endowment policy, if the sum applicable to the purchase of temporary insurance be~~
16 ~~more than sufficient to continue the insurance to the end of the endowment term~~
17 ~~named in the policy, the excess shall be used to purchase, in the same manner, pure~~
18 ~~endowment insurance payable at the end of the endowment term named in the policy~~
19 ~~on the conditions on which the original policy was issued; and provided further that,~~
20 ~~in calculating the~~ The nonforfeiture value per hundred dollars of coverage under the
21 ~~policy is determined as the sum of the legal reserve and accumulated dividends, less~~
22 ~~any policy loan indebtedness and a surrender charge equal to the greater of one-fifth~~
23 ~~of the legal reserve or two dollars and fifty cents. Unless the policy owner elects one~~
24 ~~of the other nonforfeiture options within the policy, the nonforfeiture value as~~
25 ~~determined in this Section shall be applied towards the policy's automatic~~
26 ~~nonforfeiture option. The automatic nonforfeiture option shall be the purchase of~~
27 ~~paid up life or endowment insurance on the same life at the age at the time of~~
28 ~~forfeiture and under the same terms, except as to the payment of premiums, as the~~
29 ~~original policy, or to continue the insurance in force at its full amount, including the~~
30 ~~amount of accumulated dividends, less any existing policy loan indebtedness;~~

1 however, such surrender value will purchase nonparticipating temporary insurance
 2 at net single premium rates using the standard as prescribed by the insurer, at the age
 3 at the time of forfeiture, provided that in the case of an endowment policy, if the sum
 4 needed to purchase temporary insurance is more than that needed to continue the
 5 insurance to the end of the policy's endowment term, the excess shall be used to
 6 purchase pure endowment insurance payable at the end of the policy's endowment
 7 term using the purchase rates as prescribed by the insurer. When determining the net
 8 single premium rates for ~~any~~ temporary insurance, the insurer may use one hundred
 9 thirty percent of the ~~rate of~~ reserve mortality assumption ~~adopted as a basis for~~
 10 ~~reserve for the policy~~ as the mortality rate. This further provision shall not apply to
 11 any mortality table constructed on the basis of insurance ~~companies~~ company
 12 experience prior to 1900. ~~Provided, further, that any~~ Any attempted waiver of the
 13 provisions of this ~~paragraph~~ Section in any application, policy, or otherwise shall be
 14 void, and ~~that~~ any value allowed in lieu thereof shall be at least equal to the net value
 15 of the temporary ~~and or~~ pure endowment insurance as provided herein in this Section
 16 ~~provided for~~. The term of temporary insurance ~~herein~~ provided in this Section for
 17 shall include the period of grace, if any.

18 §936. Standard nonforfeiture law for life insurance

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

28 * * *

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

4 (b) Notwithstanding any other provisions to the contrary, the insurer shall
 5 reserve the right to defer the payment of any cash surrender value for a period not to
 6 exceed six months after demand therefor with surrender of the policy.
 7 Notwithstanding ~~the above~~ this provision, if payment is not made within thirty days
 8 after demand therefor with surrender of the policy, the insurer shall pay, in addition
 9 to the cash surrender value, interest on the cash surrender value at the judicial
 10 interest rate set by ~~Louisiana Civil Code Article 2924~~ R.S. 9:3500 commencing from
 11 the date of surrender until the cash surrender value is paid in full within the six-
 12 month period.

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

22 (2) ~~Provided, however, that~~ However, for any policy issued on or after the
 23 effective date of Subsection G of this Section as defined therein, which provides
 24 supplemental life insurance or annuity benefits at the option of the insured and for
 25 an identifiable additional premium by rider or supplemental policy provision, the
 26 cash surrender value referred to in ~~the first paragraph~~ Paragraph (1) of this
 27 Subsection shall be an amount not less than the sum of the cash surrender value as
 28 defined in such ~~paragraph~~ Paragraph for an otherwise similar policy issued at the
 29 same age without such rider or supplemental policy provision and the cash surrender

1 value as defined in such ~~paragraph~~ Paragraph for a policy which provides only the
2 benefits otherwise provided by such rider or supplemental policy provision.

3 (3) ~~Provided, further, that~~ However, for any family policy issued on or after
4 the effective date of Subsection G of this Section as defined therein, which defines
5 a primary insured and provides term insurance on the life of the spouse of the
6 primary; insured expiring before the spouse's age of ~~seventy-one; years~~, the cash
7 surrender value referred to in ~~the first paragraph~~ Paragraph (1) of this Subsection
8 shall be an amount not less than the sum of the cash surrender value as defined in
9 such ~~paragraph~~ Paragraph for an otherwise similar policy issued at the same age
10 without such term insurance on the life of the spouse and the cash surrender value
11 as defined in such ~~paragraph~~ Paragraph for a policy which provides only the benefits
12 otherwise provided by such term insurance on the life of the spouse.

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

20 * * *

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

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

1 insurance issued on female risks, adjusted premiums and present values may be
 2 calculated according to an age not more than three years younger than the actual age
 3 of the insured and such calculations for all policies of industrial insurance, as defined
 4 in R.S. 22:141, shall be made on the basis of the 1941 Standard Industrial Mortality
 5 Table. All calculations shall be made on the basis of the rate of interest, not
 6 exceeding three and one-half percent per annum, specified in the policy for
 7 calculating cash surrender values and paid-up nonforfeiture benefits; ~~Provided,~~
 8 ~~however, that~~ however, in calculating the present value of any paid-up term
 9 insurance with accompanying pure endowment, if any, offered as a nonforfeiture
 10 benefit, the rates of mortality assumed may be not more than one hundred and thirty
 11 percent of the rates of mortality according to such applicable table; ~~Provided,~~
 12 ~~further, that~~ however, for insurance issued on a substandard basis, the calculation of
 13 any such adjusted premiums and present values may be based on such other table of
 14 mortality as may be specified by the insurer and approved by the commissioner.

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

1 Commissioner's 1958 Extended Term Insurance Table. ~~Provided, further, that~~
 2 However, for insurance issued on a substandard basis, the calculation of any such
 3 adjusted premiums, and present values may be based on such other table of mortality
 4 as may be specified by the insurer and approved by the commissioner.

5 (2) ~~Any~~ After July 27, 1960, any insurer may file with the commissioner a
 6 written notice of its election to comply with the provisions of this Subsection after
 7 a specified date with respect to the policies specified in the notice. After the filing
 8 of such notice, then upon such specified date which shall be the effective date of this
 9 Subsection for such insurer with respect to such policies, this Subsection shall
 10 become effective with respect to such policies specified in such notice and thereafter
 11 issued by such insurer.

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

29 * * *

1 surrender values and paid-up nonforfeiture benefits, that the present value, at the
 2 time of change to the newly defined benefits or premiums of all such future adjusted
 3 premiums shall be equal to the excess of (A) the sum of (a) the then present value of
 4 the then future guaranteed benefits provided for by the policy and (b) the additional
 5 expense allowance, if any, over (B) the then cash surrender value, if any, or present
 6 value of any paid-up nonforfeiture benefit under the policy.

7 * * *

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

18 * * *

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

24 * * *

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

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

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

10 (g) Any industrial life mortality tables adopted after 1980, by the National
11 Association of Insurance Commissioners that are approved by the commissioner for
12 use in determining the minimum nonforfeiture standard may be substituted for the
13 Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's
14 1961 Industrial Extended Term Insurance Table.

15 * * *

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

- 28 (a) In the event of death or dismemberment by accident or accidental means;₂
- 29 (b) In the event of total and permanent disability;₂
- 30 (c) As reversionary annuity or deferred reversionary annuity benefits;₂

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 listed as ~~items Subparagraphs (a) through (f) in Subsection I (I)(1)(a) through (f) of~~
2 this Section shall 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 * * *

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

2 * * *

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

6 * * *

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

10 * * *

11 §944. Exemption of proceeds; group life

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

19 * * *

20 §951. Annuities and pure endowment contracts; standard provisions

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

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

1 the deferred payments of the current contract year, if any, are made, the amount of
2 such payments, with interest, not in excess of six ~~percent~~ percent per annum, on any
3 overdue payments, may be deducted from any amount payable under the contract in
4 settlement.

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

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

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

28 (5) ~~A~~ Participating policy: If the policy is a participating policy, a provision
29 that the insurer shall annually ascertain and apportion any divisible surplus accruing
30 on the contract.

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

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

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

25 (b) If the policy is delivered by ~~an agent or broker~~, a producer, a receipt shall
 26 be signed by the policyholder acknowledging delivery of the policy. The receipt
 27 shall contain the policy number and the date the delivery was completed. The
 28 delivery receipts required by this Subparagraph shall be retained by the insurer, ~~its~~
 29 ~~agent, or the broker~~ or its producer for two consecutive years. The requirement of
 30 this Subparagraph shall not apply to any insurer that markets policies under a home

1 service marketing distribution method and that issues a majority of its policies on a
2 weekly or monthly basis.

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

10 * * *

11 §952. Standard nonforfeiture law for individual deferred annuities

12 A.

13 * * *

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

27 * * *

28 B. In the case of contracts issued on or after the operative date of this Section
29 as defined in Subsection K; of this Section, no contract of annuity, except as stated
30 in Subsection A; of this Section, shall be delivered or issued for delivery in this state

1 unless it contains in substance the following provisions, or corresponding provisions
2 which in the opinion of the commissioner are at least as favorable to the contract-
3 holder, upon cessation of payment of considerations under the contract.;

4 * * *

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

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

22 * * *

23 J. For any contract which provides, within the same contract by rider or
24 supplemental contract provision, both annuity benefits and life insurance benefits
25 that are in excess of the greater of cash surrender benefits or a return of the gross
26 considerations with interest, the minimum nonforfeiture benefits shall be equal to the
27 sum of the minimum nonforfeiture benefits for the annuity portion and the minimum
28 nonforfeiture benefits, if any, for the life insurance portion computed as if each
29 portion were a separate contract. Notwithstanding the provisions of Subsections D,
30 E, F, G, and H, additional benefits payable; (i) in the event of total and permanent

1 document or documents so specified shall be only: (a) the contract; (b) the contract
2 together with the application of the holder of which a copy is attached thereto; or (c)
3 the contract together with the application of the holder of which a copy is attached
4 thereto and the individual applications of annuitants on file with the insurer and
5 referred to therein.

6 (3) Misstatement of age or sex: A provision in such contract, with an
7 appropriate reference thereto in the certificate, for the equitable adjustment of the
8 benefits payable under the contract or of the stipulated payments thereunder, if it
9 befound that the sex, age, service, salary, or any other fact determining the amount
10 of any stipulated payment or the amount or date or dates of payment of any benefit
11 with respect to any annuitant covered thereby, has been misstated.

12 (4) Ascertainment of the benefit: A provision or provisions in such contract,
13 with an appropriate reference thereto in the certificate, specifying the nature and
14 basis of ascertainment of the benefits which will be available to an annuitant who
15 contributes to the cost of the annuity and the conditions of payment thereof in the
16 event of either the termination of employment of the annuitant, except by death, or
17 the discontinuance of stipulated payments under the contract. Such provision or
18 provisions shall, in either of such events, make available to an annuitant who
19 contributes to the cost of the annuity a paid-up annuity payable commencing at a
20 fixed date in an amount at least equal to that purchased by the contributions of the
21 annuitant, determinable as of the respective dates of payment of the several
22 contributions, as shown by a schedule included in the contract for that purpose, based
23 upon the same mortality table, rate of interest, and loading formula used in
24 computing the stipulated payments under such contract. Such provision or
25 provisions may, by way of exception to the foregoing, provide that if the amount of
26 the annuity determined as aforesaid from such fixed commencement date would be
27 less than sixty dollars annually, the insurer may at its option, in lieu of granting such
28 paid-up annuity, pay a cash surrender value at least equal to that hereinafter
29 provided. If a cash surrender value, in lieu of such paid-up annuity, is allowed to the
30 annuitant by the terms of such contract, it may be either in a single sum or in equal

1 installments over a period of not more than twelve months and it shall be at least
 2 equal to either (a) or (b), whichever is less: (a) the amount of reserve attributable to
 3 the annuitant's contributions less a surrender charge not exceeding thirty-five per
 4 centum of the average annual contribution made by the annuitant; or (b) the amount
 5 which would be payable as a death benefit at the date of surrender. Such contract
 6 shall also provide that in case of the death of the annuitant, before the
 7 commencement date of the annuity, the insurer shall pay a death benefit at least
 8 equal to the aggregate amount of the annuitant's contributions, without interest. If
 9 any benefits are available to the holder in either of such events the contract shall
 10 contain a provision or provisions specifying the nature and basis of ascertainment of
 11 such benefits.

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

16 * * *

17 §1541. Purpose and scope

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

23 §1542. Definitions

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

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

28 * * *

29 (4) "Home state" shall mean the District of Columbia or any state or territory
 30 of the United States in which an insurance producer maintains ~~his or her~~ a principal

1 place of residence or principal place of business and is licensed to act as an insurance
2 producer.

3 * * *

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

9 * * *

10 (9) "Limited line credit insurance" includes credit life, as defined in R.S.
11 22:47(~~16~~) and R.S. 6:969.6(~~12~~), credit disability, credit property, credit
12 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, or
13 mortgage disability insurance, and any other form of insurance offered in connection
14 with an extension of credit that is limited to partially or wholly extinguishing that
15 credit obligation that the commissioner of insurance determines should be designated
16 a form of limited line credit insurance.

17 * * *

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

22 * * *

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

30 * * *

1 result from these services and ~~provided~~ if those employees do not sell, solicit, or
2 negotiate insurance.

3 * * *

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

14 §1545. Examination

15 * * *

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

22 * * *

23 §1546. Application for license

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

30 * * *

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

3 * * *

4 D.

5 * * *

6 (4) The commissioner of insurance shall treat and maintain an applicant's
7 fingerprints and any criminal history record information obtained under this Section
8 as confidential and shall apply security measures consistent with the Criminal Justice
9 Information Services Division of the Federal Bureau of Investigation standards for
10 the electronic storage of fingerprints and necessary identifying information and limit
11 the use of records solely to the purposes authorized in this Section. The fingerprints
12 and any criminal history record information shall be exempt from the public records
13 law, (R.S. 44:1 et seq.) shall not be subject to subpoena, other than a subpoena
14 issued in a criminal proceeding or investigation, ~~and~~ shall be confidential by law and
15 privileged, and shall not be subject to discovery or admissible in evidence in any
16 private civil action.

17 * * *

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

24 §1547. License

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

29 * * *

1 levied shall be given due notice of such action. Upon receipt of this notice, the
2 licensee may apply for and shall be entitled to a hearing in accordance with Chapter
3 12 of this Title, R.S. 22:2191 et seq.

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

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

13 * * *

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

16 * * *

17 §1548. Nonresident licensing

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

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

22 * * *

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

26 * * *

27 B.

28 * * *

29 (2) Whenever, by the laws or regulations of any other state or jurisdiction,
30 any limitation of rights and privileges, conditions precedent, or any other

1 requirements are imposed upon residents of this state who are nonresident applicants
2 or licensees of such other state or jurisdiction in addition to, or in excess of, those
3 imposed on nonresidents under this Subpart, the same ~~such~~ requirements shall be
4 imposed upon such residents of such other state or jurisdiction.

5 (3)

6 * * *

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

11 * * *

12 D.

13 * * *

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

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

24 §1549. Specialty limited lines credit insurance

25 * * *

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

29 * * *

1 license holder as a licensed insurance ~~agent~~ producer pursuant to another provision
2 of this Subpart, unless the entity or individual actually holds the applicable license.

3 * * *

4 H. The specialty limited lines credit insurance producer license shall be
5 available equally to residents and nonresidents, ~~provided that~~; however, if the laws
6 or regulations of any other state would not permit a specialty limited lines credit
7 insurance producer that is a resident of this state to obtain a substantially equivalent
8 nonresident license, then residents of that state shall not be permitted to obtain a
9 specialty limited lines credit insurance producer license as nonresidents under this
10 Section.

11 * * *

12 §1550. Specialty limited lines motor vehicle title insurance producer licenses

13 A.

14 * * *

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

20 * * *

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

24 * * *

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

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

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
30 license to write or solicit bail bonds for not more than one year and a fine not to

1 exceed ten thousand dollars. A hearing may be requested pursuant to the provisions
2 of Chapter 12 of this Title, subject to the provisions of Chapter 13-B of Title 49 of
3 the Louisiana Revised Statutes of 1950.

4 * * *

5 §1557. Commissions

6 * * *

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

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

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

1 business entity actively engaged in soliciting, negotiating, or effecting contracts of
2 insurance or renewals thereof also hold an ~~unexpired~~ producer's active
3 producer license issued in accordance with the provisions of this Subpart.

4 §1559. Notification to commissioner of termination

5 * * *

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

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

18 * * *

19 E.(1) In the absence of actual malice, ~~neither an~~ an insurer, the authorized
20 representative of the insurer, a producer, the commissioner of insurance, ~~nor or~~ or any
21 organization of which the commissioner is a member and that compiles the
22 information and makes it available to other state insurance officials or regulatory or
23 law enforcement agencies, shall not be subject to civil liability, ~~and a~~ No civil cause
24 of action ~~of any nature~~ shall ~~not~~ arise against these entities or their respective ~~agents~~
25 producers or employees, as a result of any statement or information required by or
26 provided pursuant to this Section or any information relating to any statement that
27 may be requested in writing by the commissioner, from an insurer or producer; or a
28 statement by a terminating insurer or producer to an insurer or producer limited
29 solely and exclusively to whether a termination for cause ~~under~~ pursuant to
30 Subsection B of this Section was reported to the commissioner, ~~provided that if~~ if the

1 propriety of any termination for cause ~~under~~ pursuant to Subsection B of this Section
2 is certified in writing by an officer or authorized representative of the insurer or
3 producer terminating the relationship.

4 * * *

5 §1562. Prohibited acts

6 * * *

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

13 * * *

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

17 * * *

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

20 * * *

21 E.

22 * * *

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

1 commissioner shall be considered lawfully authorized to transact business in this
2 state.

3 * * *

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

7 * * *

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

10 * * *

11 §1564. Producers of record

12 A.

13 * * *

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

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

1 under a particular contract. In such case, such owner or insured shall select the new
2 producer of record.

3 * * *

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

7 * * *

8 §1571. Registered insurance ~~agent~~ producer and bail ~~agent~~ bond producer
9 prelicensing program

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

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

21 B. The commissioner shall promulgate rules and regulations setting forth
22 guidelines and requirements for the content and conduct of a registered insurance
23 ~~agent~~ or bail ~~agent~~ bond producer prelicensing program and for the procedure for
24 certification of an instructional program as a registered insurance ~~agent~~ producer or
25 bail bond producer prelicensing program. The commissioner shall also promulgate
26 rules and regulations specifying the qualifications which each instructor in a
27 registered insurance ~~agent~~ producer or bail ~~agent~~ bond producer prelicensing
28 program shall possess. All such rules and regulations promulgated by the
29 commissioner shall be promulgated pursuant to the provisions of the Administrative
30 Procedure Act.

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

- 3 (1) An insurance trade association;;
- 4 (2) An insurance company admitted to do business in Louisiana;;
- 5 (3) An accredited public or private college or university; ~~or~~;
- 6 (4) An organization recommended by and certified by the commissioner of
 7 insurance.

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

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

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

22 F. While instruction is in progress in a registered insurance ~~agent~~ producer
 23 or bail ~~agent~~ bond producer prelicensing program, the instructor shall permit the
 24 commissioner,~~any member of the Insurance Education Advisory Council, and~~ or any
 25 employee of the Department of Insurance to attend any educational session. Such
 26 access shall be for the purpose of monitoring the instruction and program and shall
 27 not be disruptive to the instruction. ~~Any person who attends any educational session~~
 28 ~~pursuant to the authority of this Subsection shall do so in an official capacity only.~~
 29 No information or materials shall be used for any personal reasons or gain.

1 or verifiable approved self-study. ~~Beginning with renewals effective in 2011, with~~
2 at least three hours of approved instruction or verifiable approved self-study ~~shall be~~
3 dedicated to the subject of ethics.

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

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

12 * * *

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

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

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

23 * * *

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

27 L. ~~Beginning with renewals effective in 2006, title insurance agents, Title~~
28 producers licensed pursuant to Subpart R of Part I of Chapter 2 of this Title, R.S.
29 22:511 et seq., shall complete six hours of approved instruction prior to the renewal
30 of the license.

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

4 §1574. Bail Bond Apprentice Program

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

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

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

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

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

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

28 * * *

29 §1575. Producer training requirements to sell long-term care insurance

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C.

* * *

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

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

* * *

§1583. Licensing and fees

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

* * *

1 §1591. Short title

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

4 §1592. Purpose

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

8 §1593. Definitions

9 A. For the purposes of this ~~Chapter~~: Subpart:

10 (1) "Financial institution" means a state or national bank or branch thereof
11 which accepts federally insured deposits or makes loans from a place of business
12 located in the state of Louisiana or any subsidiary or employee thereof, or a bank
13 holding company or subsidiary or employee thereof, only if the bank holding
14 company owns or controls a state or national bank or branch thereof which accepts
15 federally insured deposits or makes loans from a place of business located in the
16 state of Louisiana. The term financial institution does not include a bank which was
17 engaged as an insurance ~~agent~~ producer on January 1, 1984, or an insurance
18 company.

19 * * *

20 §1594. Applicability

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

22 * * *

23 §1595. Authorization for implementing regulations

24 The commissioner of insurance shall have the authority to promulgate rules
25 and regulations in accordance with the authority granted by the Administrative
26 Procedure Act as may be necessary to effectuate the provisions of this ~~Chapter~~:
27 Subpart. However, the commissioner of insurance shall not impose any additional
28 requirement on any insurance ~~agent or broker~~ producer who is associated with a
29 financial institution that is not imposed on any insurance ~~agent~~ producer who is not

1 associated with such institution unless such requirement is set forth in this ~~Chapter~~.
2 Subpart.

3 * * *

4 §1597. Sales force

5 The solicitation of a customer of a financial institution for the purchase or
6 sale of insurance shall not be conducted by any natural person directly responsible
7 for making a specific loan or extension of credit to that customer before such time
8 as the final decision regarding the acceptance or denial of that specific loan or
9 extension of credit is made and communicated in writing to the customer. For the
10 purposes of this ~~Chapter~~, Subpart, solicitation does not include referral of the
11 customer to a licensed insurance ~~agent~~ producer not directly responsible for making
12 the specific loan or extension of credit, informing the customer that the required
13 insurance is available from the financial institution, or providing the customer with
14 any disclosures which are required by R.S. 22:1600.

15 §1598. Referrals

16 * * *

17 C. Any person or entity responsible for making a specific loan or extension
18 of credit may receive a reasonable referral fee for the insurance referral of a
19 customer who is required to provide insurance for that loan or extension of credit.
20 An insurance referral fee paid to such person or entity making a specific loan or
21 extension of credit shall not be in the form of an insurance sales commission which
22 varies based on the quotation or application for insurance, purchase of insurance, or
23 the amount of premium written. The insurance referral fee shall be paid solely on
24 the basis of the referral. This Section shall not preclude a person directly or
25 indirectly responsible for making a specific loan or extension of credit, who is a
26 licensed insurance producer, from soliciting and selling insurance to a loan customer
27 and earning a commission, so long as the solicitation and sale is conducted after the
28 final loan decision has been communicated to the customer in writing, in accordance
29 with the provisions of R.S. 22:1597. The customer shall also be notified that ~~they~~
30 are he is not required to purchase insurance through the financial institution, and the

1 customer's choice of another insurance provider will not affect the financial
2 institution's credit decision or credit terms in any way.

3 §1599. Insurance as a condition to service

4 A. A financial institution shall not in any manner extend credit, lease, or sell
5 property of any kind, or furnish any service, or fix or vary the consideration for any
6 of the foregoing, on the condition or requirement that the customer shall obtain
7 insurance from the financial institution. In accordance with the ~~foregoing, provisions~~
8 of this Subpart, the financial institution shall not represent that the purchase of an
9 insurance product from a financial institution by a customer or prospective customer
10 of the institution is required as a condition of, or is any way related to, the lending
11 of money or extension of credit, the establishment or maintenance of a trust account,
12 the establishment or maintenance of a checking, savings, or deposit account, or the
13 provision of services related to any such activities.

14 * * *

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

17 * * *

18 §1600. ~~Disclosures;~~ Disclosure; required

19 * * *

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

23 * * *

24 §1603. No discrimination against non-affiliated ~~agents~~ producers

25 No financial institution may:

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

29 * * *

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

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

5 D: ~~(1)~~ (4)(a) "Managing General Agent" (MGA) means any person, ~~firm,~~
 6 ~~association, or corporation~~ who manages all or part of the insurance business of an
 7 insurer, including the management of a separate division, department, or
 8 underwriting office, and acts as an agent for such insurer whether known as a
 9 managing general agent, manager, or other similar term, who, with or without the
 10 authority, either separately or together with affiliates, produces, directly or indirectly,
 11 and underwrites an amount of gross direct written premium equal to or more than
 12 five percent of the policyholder surplus as reported in the last annual statement of the
 13 insurer in any one quarter or year together with one or more of the following:

14 ~~(a)~~ (i) Adjusts or pays claims in excess of an amount determined by the
 15 commissioner; ~~or,~~

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

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

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

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

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

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

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

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

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

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

9 §1623. Licensure; registration

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

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

17 * * *

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

23 * * *

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

28 * * *

1 §1624. Required contract provisions

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

7 ~~A. (1)~~ (1) The insurer may terminate the contract for cause upon written notice
 8 to the MGA. The insurer may suspend the underwriting authority of the MGA
 9 ~~during the pendency of~~ while any dispute regarding the cause for termination: is
 10 pending.

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

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

19 ~~D. (4)~~ (4) Separate records of business written by the MGA shall be maintained.
 20 The insurer shall have access and right to copy all accounts and records related to its
 21 business in a form usable by the insurer, and the commissioner shall have access to
 22 all books, bank accounts, and records of the MGA in a form usable to the
 23 commissioner. Such records shall be retained pursuant to rules and regulations
 24 promulgated by the commissioner.

25 ~~E. (5)~~ (5) The contract may not be assigned in whole or part by the MGA.

26 ~~F. (6)~~ (6) Appropriate underwriting guidelines including:

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

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

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

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

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

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

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

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

5 ~~G.~~ (7) The insurer shall have the right to cancel or nonrenew any policy of
6 insurance pursuant to the laws and regulations applicable thereto.

7 H. (8) If the contract permits the MGA to settle claims on behalf of the
8 insurer:

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

11 ~~(2)~~ (b) A copy of the claim file shall be sent to the insurer at its request or
12 as soon as it becomes known that the claim meets at least one of the following
13 criteria:

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

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

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

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

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

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

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

29 I. (9) When electronic claims files are in existence, the contract shall address
30 the timely transmission of the data.

1 ~~¶ (10)~~ If the contract provides for a sharing of interim profits by the MGA,
 2 and the MGA has the authority to determine the amount of the interim profits by
 3 establishing loss reserves, controlling claim payments, or in any other manner,
 4 interim profits shall not be paid to the MGA until one year after they are earned for
 5 property insurance business and five years after they are earned for casualty business
 6 and not until the profits have been verified pursuant to R.S. 22:1625 ~~of this Part~~.

7 ~~Ⓚ. B.~~ The MGA shall not:

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

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

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

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

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

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

25 (7) Appoint a sub-MGA.

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

27 §1625. Duties of insurers

28 A. If an insurer has an MGA who writes more than five percent of its
 29 policyholder surplus, then the insurer shall provide financial data by an independent
 30 examiner concerning that ~~company's~~ insurer's book of business which is in question

1 and is handled by that MGA upon request, and the insurer shall have on file an
2 independent financial examination, in a form acceptable to the commissioner, of
3 each MGA with which it has done business.

4 * * *

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

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

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

11 * * *

12 §1627. Penalties; suspension, revocation, fines, and liabilities

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

16 * * *

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

19 * * *

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

21 §1641. Definitions

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

24 (1) "Administrator" or "third-party administrator" or "TPA" means any
25 ~~individual, partnership, corporation, or other~~ person, except an employee of a fund
26 or plan that serves as an administrator, who directly or indirectly solicits or effects
27 coverage of, underwrites, collects charges or premiums from, or adjusts or settles
28 claims on residents of this state, or residents of another state from offices in this
29 state, in connection with life or health insurance coverage or annuities, or plans of
30 self-insurance providing accident and health protection or self-insurance of workers'

1 compensation coverage, or any individual, partnership, corporation, or other person
2 who contracts directly or indirectly with a group self-insurance fund licensed
3 pursuant to the provisions of R.S. 23:1195 et seq. to provide claims adjusting,
4 underwriting, safety engineering, loss control, marketing, investment advisory, or
5 administrative services to the fund or its membership, other than bookkeeping,
6 auditing, or claims investigation services, except any of the following:

7 * * *

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

11 * * *

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

16 * * *

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

21 * * *

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

23 * * *

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

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

1 responsible for retaining the records of the prior administrator as required ~~herein~~ in
2 this Part.

3 * * *

4 §1651. Licensure required

5 * * *

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

10 * * *

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

17 * * *

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

24 * * *

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

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

2 * * *

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

17 * * *

18 §1652. Waiver of application for certification

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

24 * * *

25 §1654. Grounds for suspension or revocation of license

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

1 exceed five thousand dollars per violation or twenty-five thousand dollars in the
2 aggregate if he finds that the administrator:

3 * * *

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

7 * * *

8 §1657. Pharmacy benefit managers

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

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

20 * * *

21 §1662. General exemptions

22 This Part does not apply to:

23 * * *

24 (6)(a) An individual who collects claim information from, or furnishes claim
25 information to, ~~insured~~ insureds or claimants, who conducts data entry including
26 entering data into an automated claims adjudication system ~~provided if~~ if such
27 individual is an employee of a business entity licensed pursuant to this Chapter, or
28 an employee of an affiliate of a business entity licensed pursuant to the Chapter, if
29 there are no more than twenty-five individuals under the supervision of one licensed
30 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
12 license shall make application to the commissioner of insurance on the appropriate
13 uniform application or other application ~~prescribed~~ required by the commissioner
14 of 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~~ pursuant to this Paragraph to
24 submit addresses, social security numbers, criminal and administrative history,
25 fingerprints, 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~~ available only if the person is
9 currently licensed in that state or if the application is received within twelve months
10 of the cancellation of the applicant's previous claims adjuster license and if the prior
11 state issues a certification that, at the time of cancellation, the applicant was in good
12 standing in that state or the state's producer database records or records maintained
13 by the 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~~
24 available only if the application is received within twelve months of the cancellation
25 of the applicant's previous claims adjuster license in this state and if, at the time of
26 cancellation, the applicant was in good standing in this state, and had passed the
27 examination required 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~~ his 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 and the new home state
16 awards nonresident claims adjuster licenses to residents of this state on the same
17 basis. Notification to the state or states where a nonresident license is issued ~~must~~
18 shall be made as soon as possible, yet no later than thirty days of change in the new
19 state resident license. ~~Licensee~~ The licensee shall include ~~the new and old his~~
20 current and prior address. ~~A new state resident license is required for nonresident~~
21 ~~licenses to remain valid. The new state resident license must have reciprocity with~~
22 ~~this state for the nonresident license not to terminate.~~

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.

29 B.

30 * * *

1 §1696. Examination

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

9 * * *

10 §1697. Exemptions from examination

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

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

26 C. An individual who applies for a public adjuster license in this state who
27 was previously licensed as a public adjuster in this state shall not be required to
28 complete any ~~prelicensing or~~ examination. This exemption is ~~only available~~
29 available only if the application is received within twelve months of the cancellation

1 of the applicant's previous license in this state and if, at the time of cancellation, the
2 applicant was in good standing in this state.

3 §1698. Nonresident license reciprocity

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

6 * * *

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

10 * * *

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

24 §1699. License

25 A.

26 * * *

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

1 §1706. Standards of conduct of public adjuster

2 * * *

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

10 * * *

11 §1722. Definitions

12 As used in this Part:

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

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

17 ~~(2) (3)~~ (3) "Controlling person" shall mean any person, ~~firm, association, or~~
18 ~~corporation~~ who directly or indirectly has the power to direct or cause to be directed,
19 the management, control, or activities of the reinsurance intermediary.

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

21 ~~(3) (5)~~ (5) "Insurer" shall mean any ~~person, firm, association, or corporation~~
22 ~~duly licensed in this state, pursuant to the applicable provisions of the Louisiana~~
23 ~~Insurance this Code, as an insurer.~~ authorized insurer as defined in R.S. 22:46.

24 ~~(4) (6)~~ (6) "Licensed producer" shall mean ~~an agent, broker, or~~ a person
25 licensed as an insurance producer pursuant to the provisions of Subpart A of Part I
26 of this Chapter, R.S. 22:1541 et seq., or a person licensed as a reinsurance
27 intermediary-broker licensed pursuant to the applicable provisions of the Louisiana
28 Insurance Code: this Part.

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

1 ~~(5)~~ (8) "Reinsurance intermediary" shall mean a reinsurance intermediary-
 2 broker or a reinsurance intermediary-manager, ~~as these terms are defined in~~
 3 ~~Paragraphs (6) and (7) of this Section.~~

4 ~~(6)~~ (9) "Reinsurance intermediary-broker" shall mean any person, other than
 5 an officer or employee of the ceding insurer, who solicits, negotiates, or places
 6 reinsurance cessions or retrocessions on behalf of a ceding insurer without the
 7 authority or power to bind reinsurance on behalf of such insurer.

8 ~~(7)~~ (10) "Reinsurance intermediary-manager" shall mean any person, ~~firm,~~
 9 ~~association, or corporation~~ who has authority to bind or manages all or part of the
 10 assumed reinsurance business of a reinsurer, including the management of a separate
 11 division, department or underwriting office, and acts as an agent for such reinsurer,
 12 whether known as a reinsurance intermediary-manager, manager, or other similar
 13 term. ~~Notwithstanding the above,~~ any previous provision of this Section, the
 14 following persons shall not be considered a reinsurance intermediary-manager, with
 15 respect to such reinsurer, for the purposes of this Part:

16 (a) An employee of the reinsurer.

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

19 (c) An underwriting manager which, pursuant to contract, manages all the
 20 reinsurance operations of the reinsurer, is under common control with the reinsurer,
 21 subject to the Insurance Holding Company System Regulatory Law, R.S. 22:691 et
 22 seq., and whose compensation is not based on the volume of premiums written.

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

26 ~~(8)~~ (11) "Reinsurer" shall mean any person, ~~firm, association, or corporation~~
 27 duly licensed in this state, pursuant to the applicable provisions of ~~the Louisiana~~
 28 ~~Insurance~~ this Code, as an insurer with the authority to assume reinsurance.

29 ~~(9)~~ (12) "Qualified United States financial ~~institutions~~" institution" shall, for
 30 purposes of this Part, mean an institution that:

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

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

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

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

13 §1723. Licensure

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

18 * * *

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

21 * * *

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

26 * * *

27 D.(1) The commissioner may issue a reinsurance intermediary license to any
28 person, ~~firm, association, or corporation~~ who has complied with the requirements of
29 this Part. Any such license issued to a ~~firm or association~~ business entity will
30 authorize all the members, officers, and designated employers and directors of the

1 ~~firm or association and any designated employees~~ business entity to act as
 2 reinsurance intermediaries under the license, and all such persons shall be named in
 3 the application and any supplements thereto. ~~Any license issued to a corporation~~
 4 ~~shall authorize all of the officers, and any designated employees and directors thereof~~
 5 ~~to act as reinsurance intermediaries on behalf of such corporation, and all such~~
 6 ~~persons shall be named in the application and any supplements thereto.~~

7 (2) If the applicant for a reinsurance intermediary license is a nonresident,
 8 the applicant, as a condition precedent to receiving or holding a license, shall
 9 designate the commissioner as agent for service of process, to in the manner, and
 10 ~~with the same legal effect, provided for by this Part for designation of service of~~
 11 ~~process upon unauthorized insurers, and shall furnish the commissioner with the~~
 12 ~~name and address of a resident of this state upon whom notices or orders of the~~
 13 ~~commissioner or process affecting such nonresident reinsurance intermediary may~~
 14 be served. ~~The licensee shall promptly notify the commissioner, in writing, of every~~
 15 ~~change in its designated agent for service of process, and such change shall not~~
 16 ~~become effective until acknowledged by the commissioner.~~

17 * * *

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

20 §1724. Required contract provisions for reinsurance intermediary-brokers

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

25 * * *

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

28 * * *

1 §1726. Duties of insurers utilizing the services of a reinsurance intermediary-broker

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

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

10 * * *

11 §1727. Required contract provisions for reinsurance intermediary-managers

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

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

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

29 (3) All funds collected for the account of the reinsurer ~~will~~ shall be held by
30 the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a

1 qualified United States financial institution as defined herein. The reinsurance
2 intermediary-manager may retain no more than three months estimated claims
3 payments and allocated loss adjustment expenses. The reinsurance intermediary-
4 manager shall maintain a separate bank account for each reinsurer that it represents.

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

8 * * *

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

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

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

17 * * *

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

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

29 * * *

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

4 * * *

5 §1728. Prohibited acts

6 The reinsurance intermediary-manager shall not:

7 * * *

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

12 * * *

13 §1729. Duties of reinsurers utilizing the services of a reinsurance intermediary-
14 manager

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

18 * * *

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

25 * * *

26 §1731. Penalties and liabilities

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

30 * * *

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

3 * * *

4 §1741. Purpose

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

9 * * *

10 §1747. Licensure

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

21 * * *

22 §1761. Purpose

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

28 * * *

29 §1763. Limited licensing; fees

30 * * *

1 B. As a prerequisite for issuance of a limited license ~~under~~ pursuant to this
2 Part, there shall be filed with the commissioner a written application for a limited
3 license, ~~along with a five hundred dollar application fee~~, signed by an officer of the
4 applicant, in such form or forms, and supplements thereto, and containing such
5 information as the commissioner may prescribe by rule or regulation. The
6 application shall be accompanied by such fee as provided by R.S. 22:821. Every
7 limited licensee shall, every two years, notify the commissioner of his intention to
8 continue its license on forms provided by the commissioner and shall submit a
9 renewal fee ~~of two hundred fifty dollars. However, for a licensee who maintains~~
10 ~~twenty-five or less vehicles, the initial application fee shall be one hundred dollars~~
11 ~~and the renewal fee shall be fifty dollars.~~ as provided by R.S. 22:821.

* * *

§1766. Authorized employees

* * *

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

§1767. Insurance charges

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

§1768. Representations

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

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

1 Section 3. The Louisiana State Law Institute is hereby directed to redesignate R.S.
2 22:937 as R.S. 22:917.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____