

Regular Session, 2013

SENATE BILL NO. 101

BY SENATOR JOHNS

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

LIFE INSURANCE. Provides with respect to life insurance reserves. (1/1/14)

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AN ACT

To amend and reenact R.S. 22:752(A) and (D)(introductory paragraph), 753(B) and (C), and 936(G)(8)(f) and (g) and (9), and R.S. 44:4.1(B)(11), and to enact R.S. 22:752(E) and (F), 753(D), (E), (F), (G), (H), (I), and (J), and 936(G)(8)(h) and (i) and (J)(7), relative to life insurance reserves; to provide with respect to policies under standard valuation law; to provide relative to standard nonforfeiture law for life insurance; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:752(A) and (D)(introductory paragraph), 753(B) and (C), and 936(G)(8)(f) and (g) and (9) are hereby amended and reenacted and R.S. 22:752(E) and (F), 753(D), (E), (F), (G), (H), (I), and (J), and 936(G)(8)(h) and (i) and (J)(7) are hereby enacted to read as follows:

§752. Actuarial opinion reserves

A. Each **Prior to the operative date of the valuation manual, each** life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are

1 **(1) If the insurance company fails to provide a supporting memorandum**
2 **at the request of the commissioner within a period specified in the valuation**
3 **manual or the commissioner determines that the supporting memorandum**
4 **provided by the insurance company fails to meet the standards prescribed by**
5 **the valuation manual or is otherwise unacceptable to the commissioner, the**
6 **commissioner may engage a qualified actuary at the expense of the company to**
7 **review the opinion and the basis for the opinion and prepare the supporting**
8 **memorandum required by the commissioner.**

9 **(2) The opinion and memorandum shall be in accordance with the form**
10 **and substance prescribed in the valuation manual and acceptable to the**
11 **commissioner.**

12 **(3) The opinion shall be submitted with the annual statement reflecting**
13 **the valuation of such reserve liabilities for each year ending on or after the**
14 **operative date of the valuation manual.**

15 **(4) The opinion shall apply to all policies and contracts subject to**
16 **Paragraph (2) of Subsection E of this Section, plus other actuarial liabilities as**
17 **may be specified in the valuation manual.**

18 **(5) The opinion shall be based on standards adopted by the Actuarial**
19 **Standards Board, or its successor, and on additional standards that may be**
20 **prescribed in the valuation manual.**

21 **(6) In the case of an opinion required to be submitted by a foreign or**
22 **alien company, the commissioner may accept the opinion filed by that company**
23 **with the insurance supervisory official of another state if the commissioner**
24 **determines that the opinion reasonably meets the requirements applicable to a**
25 **company domiciled in this state.**

26 **(7) Except in cases of fraud or willful misconduct, the appointed actuary**
27 **shall not be liable for damages to any person, other than the insurance company**
28 **and the commissioner, for any act, error, omission, decision, or conduct with**
29 **respect to the appointed actuary's opinion.**

1 (b) For all new industrial life insurance policies issued on the standard basis,
2 excluding any disability and accidental death benefits in such policies: the 1941
3 Standard Industrial Mortality Table for such policies issued prior to September 7,
4 1979, and for such policies issued on or after such effective date the Commissioners
5 1961 Standard Industrial Mortality Table or any industrial mortality table adopted
6 after 1980, by the National Association of Insurance Commissioners that is approved
7 by the commissioner.

8 (c) For individual annuity and pure endowment contracts, excluding any
9 disability and accidental death benefits in such policies: the 1937 Standard Annuity
10 Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949,
11 Ultimate, or any modification of either of these tables approved by the
12 commissioner.

13 (d) For group annuity and pure endowment contracts, excluding any
14 disability and accidental death benefits in such policies: the Group Annuity Mortality
15 Table for 1951, any modification of such table approved by the commissioner, or,
16 at the option of the insurer, any of the tables or modifications of tables specified for
17 individual annuity and pure endowment contracts.

18 (e) For total and permanent disability benefits in or supplementary to
19 ordinary policies or contracts: for policies or contracts issued on or after January 1,
20 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates
21 of the 1952 Disability Study of the Society of Actuaries, with due regard to the type
22 of benefit or any tables of disablement rates and termination rates adopted on or after
23 January 1, 1981, by the National Association of Insurance Commissioners that are
24 approved by the commissioner; for policies or contracts issued on or after January
25 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the
26 insurer, the Class (3) Disability Table (1926); and for policies issued prior to January
27 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives,
28 be combined with a mortality table authorized by this Subpart for calculating the
29 reserves for life insurance policies.

1 (f) For accidental death benefits in or supplementary to policies: for policies
2 issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any
3 accidental death benefits table adopted on or after January 1, 1981, by the National
4 Association of Insurance Commissioners that is approved by the commissioner; for
5 policies issued on or after January 1, 1961, and prior to January 1, 1966, either such
6 table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality
7 Table; and for policies issued prior to January 1, 1961, the Inter-Company Double
8 Indemnity Mortality Table. Either table shall be combined with a mortality table
9 authorized by this Subpart for calculating the reserves for life insurance policies.

10 (g) For group life insurance, life insurance issued on the substandard basis
11 and other special benefits: such tables as approved by the commissioner.

12 (2)(a) Except as provided in Paragraph (3) of this Subsection, the minimum
13 standard for the valuation of all individual annuity and pure endowment contracts
14 issued on or after September 7, 1979, and for all annuities and pure endowments
15 purchased on or after such effective date under group annuity and pure endowment
16 contracts shall be the Commissioner's reserve valuation methods defined in
17 Paragraphs (4) and (5) of this Subsection and the following tables and interest rates:

18 (i) For individual annuity and pure endowment contracts issued prior to
19 September 7, 1979, excluding any disability and accidental death benefits in such
20 contracts: the 1971 Individual Annuity Mortality Table, or any modification of this
21 table approved by the commissioner, and six percent interest for single premium
22 immediate annuity contracts, and four percent interest for all other individual annuity
23 and pure endowment contracts.

24 (ii) For individual single premium immediate annuity contracts issued on or
25 after September 7, 1979, excluding any disability and accidental death benefits in
26 such contracts: the 1971 Individual Annuity Mortality Table or any individual
27 annuity mortality table adopted on or after January 1, 1981, by the National
28 Association of Insurance Commissioners that is approved by the commissioner, or
29 any modification of these tables approved by the commissioner, and seven and one-

1 half percent interest.

2 (iii) For individual annuity and pure endowment contracts issued on or after
3 September 7, 1979, other than single premium immediate annuity contracts,
4 excluding any disability and accidental death benefits in such contracts: the 1971
5 Individual Annuity Mortality Table or any individual annuity mortality table adopted
6 on or after January 1, 1981, by the National Association of Insurance Commissioners
7 that is approved by the commissioner, or any modification of these tables approved
8 by the commissioner, and five and one-half percent interest for single premium
9 deferred annuity and pure endowment contracts and four and one-half percent
10 interest for all other such individual annuity and pure endowment contracts.

11 (iv) For all annuities and pure endowments purchased prior to September 7,
12 1979, under group annuity and pure endowment contracts, excluding any disability
13 and accidental death benefits purchased under such contracts: the 1971 Group
14 Annuity Mortality Table, or any modification of this table approved by the
15 commissioner, and six percent interest.

16 (v) For all annuities and pure endowments purchased on or after September
17 7, 1979, under group annuity and pure endowment contracts, excluding any disability
18 and accidental death benefits purchased under such contracts: the 1971 Group
19 Annuity Mortality Table or any group annuity mortality table adopted on or after
20 January 1, 1981, by the National Association of Insurance Commissioners that is
21 approved by the commissioner, or any modification of these tables approved by the
22 commissioner, and seven and one-half percent interest.

23 (b) Any insurer may file with the commissioner a written notice of its
24 election to comply with the provisions of this Paragraph after a specified date before
25 January 1, 1981, which shall be the effective date of this Paragraph for such insurer;
26 provided, an insurer may elect a different effective date for individual annuity and
27 pure endowment contracts from that elected for group annuity and pure endowment
28 contracts. If an insurer makes no such election, the effective date of this Paragraph
29 for such insurer shall be January 1, 1981.

1 (3)(a) The interest rates used in determining minimum standard for the
 2 valuation of the policies and contracts listed in Items (i), (ii), (iii), and (iv) of this
 3 Subparagraph shall be the calendar year statutory valuation interest rates, as defined
 4 in this Paragraph, or, at the option of the insurer, for any category of policies or
 5 contracts, the rate or rates of interest provided in Paragraph (1) or (2) of this
 6 Subsection.

7 (i) All life insurance policies issued in a particular calendar year, on or after
 8 January 1, 1989.

9 (ii) All individual annuity and pure endowment contracts issued on or after
 10 January 1, 1983.

11 (iii) All group annuities and pure endowments on or after January 1, 1983.

12 (iv) The net increase, if any, in a particular calendar year after January 1,
 13 1983, in the amounts held under guaranteed interest contracts.

14 (b)(i) The calendar year statutory valuation interest rates shall be determined
 15 as follows, with the results rounded to the nearer one-quarter of one percent:

16 (aa) For life insurance: $I = .03 + W (R_1 - .03) + \underline{W} (R_2 - .09)$.

17 2

18 (bb) For single premium immediate annuities and for annuity benefits
 19 involving life contingencies arising from other annuities with cash settlement options
 20 and from guaranteed interest contracts with cash settlement options: $I = .03 + W (R -$
 21 $.03)$ where R_1 is the lesser of R and $.09$; R_2 is the greater of R and $.09$; R is the
 22 reference interest rate defined in Subparagraph (d) of this Paragraph; and W is the
 23 weighting factor defined in Subparagraph (c) of this Paragraph.

24 (cc) For other annuities with cash settlement options and guaranteed interest
 25 contracts with cash settlement options, valued on an issue year basis, except as stated
 26 in Subitem (bb) of this Item, the formula for life insurance stated in Subitem (aa) of
 27 this Item shall apply to annuities and guaranteed interest contracts with guarantee
 28 durations in excess of ten years, and the formula for single premium immediate
 29 annuities stated in Subitem (bb) of this Item shall apply to annuities and guaranteed

1 interest contracts with guarantee duration of ten years or less.

2 (dd) For other annuities with no cash settlement options and for guaranteed
3 interest contracts with no cash settlement options, the formula for single premium
4 immediate annuities stated in Subitem (bb) of this Item shall apply.

5 (ee) For other annuities with cash settlement options and guaranteed interest
6 contracts with cash settlement options, valued on a change in fund basis, the formula
7 for single premium immediate annuities stated in Subitem (bb) of this Item shall
8 apply.

9 (ii) However, if the calendar year statutory valuation interest rate for any life
10 insurance policies issued in any calendar year determined without reference to this
11 Subparagraph differs from the corresponding actual rate for similar policies issued
12 in the immediately preceding calendar year by less than one-half of one percent, the
13 calendar year statutory valuation interest rate for such life insurance policies shall
14 then be equal to the corresponding actual rate for the immediately preceding calendar
15 year. For purposes of applying this Subparagraph, the calendar year statutory
16 valuation interest rate for life insurance policies issued in a calendar year shall be
17 determined for 1980, by using the reference interest rate defined for 1979, and shall
18 be determined for each subsequent calendar year.

19 (iii) At the option of the insurer, calculation for life insurance policies issued
20 in a particular calendar year may be made on the basis of a rate of interest not
21 exceeding the statutory interest rate, as defined in this Subsection, for life insurance
22 policies issued in the immediately preceding calendar year.

23 (c) The weighting factors referred to in the formulae stated in Subparagraph
24 (b) of this Paragraph shall be as provided in the following tables:

25 (i) Weighting factors for life insurance:

<u>Guarantee Duration in years</u>	<u>Weighting Factors</u>
10 years or less	.50
More than 10, but not more than 20 years	.45

1 More than 20 years .35

2 For life insurance, the guarantee duration is the maximum number of years
 3 the life insurance can remain in force on a basis guaranteed in the policy or under
 4 options to convert to plans of life insurance with premium rates or nonforfeiture
 5 values, or both, which are guaranteed in the original policy;

6 (ii) The weighting factor for single premium immediate annuities and for
 7 annuity benefits involving life contingencies arising from other annuities with cash
 8 settlement options and guaranteed interest contracts with cash settlement options is
 9 .80.

10 (iii) Weighting factors for other annuities and for guaranteed interest
 11 contracts, except as stated in Item (ii) of this Subparagraph, shall be as specified in
 12 Subitems (aa), (bb), and (cc) of this Item according to the provisions in Subitems
 13 (dd), (ee), and (ff) of this Item:

14 (aa) For annuities and guaranteed interest contracts valued on an issue year
 15 basis:

<u>Guarantee</u>	<u>Weighting Factor</u>		
<u>Duration in Years</u>	<u>A</u>	<u>B</u>	<u>C</u>
5 years or less:	.80	.60	.50
More than 5 years, but not more than 10 years:	.75	.60	.50
More than 10 years, but not more than 20 years:	.65	.50	.45
More than 20 years:	.45	.35	.35

23 (bb) Plan Type
 24 A B C

25 For annuities and guaranteed interest contracts valued
 26 on a change in fund basis, the factors shown in ~~(a) above~~ **Subparagraph (a)**
 27 **of this Paragraph** increased by: .15 .25 .05

28 (cc) Plan Type
 29 A B C

1 For annuities and guaranteed interest contracts valued on
2 an issue year basis, other than those with no cash settlement
3 options, which do not guarantee interest on considerations
4 received more than one year after issue or purchase and for
5 annuities and guaranteed interest contracts valued on a change
6 in fund basis which do not guarantee interest rates on
7 considerations received more than twelve months beyond
8 the valuation date, the factors shown in Subitem (aa) or derived
9 in Subitem (bb) increased by: .05 .05 .05

10 (dd) For other annuities with cash settlement options and guaranteed interest
11 contracts with cash settlement options, the guarantee duration is the number of years
12 for which the contract guarantees interest rates in excess of the calendar year
13 statutory valuation interest rate for life insurance policies with guarantee duration in
14 excess of twenty years. For other annuities with no cash settlement options and for
15 guaranteed interest contracts with no cash settlement options, the guarantee duration
16 is the number of years from the date of issue or date of purchase to the date annuity
17 benefits are scheduled to commence.

18 (ee) The plan type as used in the above tables is defined as follows:

19 Plan Type A: At any time the policyholder may withdraw funds only with
20 an adjustment to reflect changes in interest rates or asset
21 values since receipt of the funds by the insurer, or without
22 such adjustment but in installments over five years or more,
23 or as an immediate life annuity, or no withdrawal as
24 permitted.

25 Plan Type B: Before expiration of the interest rate guarantee, the
26 policyholder may withdraw funds only with an adjustment to
27 reflect changes in interest rates or asset values since receipt
28 of the funds by the insurer, or without such adjustment but in
29 installments over five years or more, or no withdrawal is

1 permitted. At the end of the interest rate guarantee, funds may
2 be withdrawn without such adjustment in a single sum or
3 installments over less than five years.

4 Plan Type C: The policyholder may withdraw funds before expiration of
5 the interest rate guarantee in a single sum or installments over
6 less than five years either without adjustment to reflect
7 changes in the interest rates or asset values since receipt of
8 the funds by the insurer, or subject only to a fixed surrender
9 charge stipulated in the contract as a percentage of the fund.

10 (ff) An insurer may elect to value guaranteed interest contracts with cash
11 settlement options and annuities with cash settlement options on either an issue year
12 basis or on a change in fund basis. Guaranteed interest contracts with no cash
13 settlement options and other annuities with no cash settlement options shall be
14 valued on an issue year basis. As used in this Paragraph, an issue year basis of
15 valuation refers to a valuation basis under which the interest rate used to determine
16 the minimum valuation standard for the entire duration of the annuity or guaranteed
17 interest contract is the calendar year valuation interest rate for the year of issue or
18 year of purchase of the annuity or guaranteed interest contract, and the change in
19 fund basis of valuation refers to a valuation basis under which the interest rate used
20 to determine the minimum valuation standard applicable to each change in the fund
21 held under the annuity or guaranteed interest contract is the calendar year valuation
22 interest rate for the year of the change in the fund.

23 (d) The reference interest rate referred to in Subparagraph (b) of this
24 Paragraph shall be defined as follows:

25 (i) For all life insurance, the lesser of the average over a period of thirty-six
26 months and the average over a period of twelve months, ending on June thirtieth of
27 the calendar year next preceding the year of issue, of the Monthly Average of the
28 Composite Yield on Seasoned **Corporate** Bonds, as published by Moody's Investors
29 Service, Inc.

1 (ii) For a single premium immediate annuity and for annuity benefits
2 involving life contingencies arising from other annuities with cash settlement options
3 and guaranteed interest contracts with cash settlement options, the average over a
4 period of twelve months, ending on June thirtieth of the calendar year of issue or
5 year of purchase, of the Monthly Average of the Composite Yield on Seasoned
6 **Corporate** Bonds, as published by Moody's Investors Service, Inc.

7 (iii) For other annuities with cash settlement options and guaranteed interest
8 contracts with cash settlement options, valued on a year of issue basis, except as
9 stated in Subitem (c)(iii)(bb) of this Paragraph with guarantee duration in excess of
10 ten years, the lesser of the average over a period of twelve months, ending on June
11 thirtieth of the calendar year of issue or purchase, of the Monthly Average of the
12 Composite Yield on Seasoned **Corporate** Bonds, as published by Moody's Investors
13 Service, Inc.

14 (iv) For other annuities with cash settlement options and guaranteed interest
15 contracts with cash settlement options valued on a year of issue basis, except as
16 stated in Item (ii) of this Subparagraph, with guarantee duration of ten years or less,
17 the average over a period of twelve months, ending on June thirtieth of the calendar
18 year of issue or purchase, of the Monthly Average of the Composite Yield on
19 Seasoned **Corporate** Bonds, as published by Moody's Investors Service, Inc.

20 (v) For other annuities with no cash settlement options and for guaranteed
21 interest contracts with no cash settlement options, the average over a period of
22 twelve months, ending on June thirtieth of the calendar year of issue or purchase, of
23 the Monthly Average of the Composite Yield on Seasoned **Corporate** Bonds as
24 published by Moody's Investors Service, Inc.

25 (vi) For other annuities with cash settlement options and guaranteed interest
26 contracts with cash settlement options, valued on a change in fund basis, except as
27 stated in (ii) above, the average over a period of twelve months, ending on June
28 thirtieth of the calendar year of the change in the fund, of the Monthly Average of
29 the Composite Yield on Seasoned **Corporate** Bonds as published by Moody's

1 Investors Service, Inc.

2 (e) In the event that the Monthly Average of the Composite Yield on
3 Seasoned **Corporate** Bonds is no longer published by Moody's Investors Service,
4 Inc., or in the event that the National Association of Insurance Commissioners
5 determines that the Monthly Average of the Composite Yield on Seasoned
6 **Corporate** Bonds as published by Moody's Investors Service, Inc. is no longer
7 appropriate for the determination of the reference interest rate, then an alternative
8 method for determination of the reference interest rate, which is adopted by the
9 National Association of Insurance Commissioners and approved by the
10 commissioner, shall be substituted.

11 (4)(a) Except as otherwise provided in Paragraphs (5), (6), and (8) of this
12 Subsection, reserves according to the Commissioner's Reserve Valuation Method for
13 the life insurance and endowment benefits of policies providing for a uniform
14 amount of insurance and requiring the payment of uniform premiums, shall be the
15 excess, if any, of the present value at the date of valuation of such future guaranteed
16 benefits provided for by such policies, over the then present value of any future
17 modified net premiums therefor. The modified net premiums for any such policy
18 shall be the uniform percentage of the respective contract premiums, excluding extra
19 premiums on substandard policies, for such benefits that, at the date of issue of the
20 policy, the present value of all modified net premiums shall be equal to the sum of
21 the then present value of such benefits provided for by the policy and the excess of
22 Item (i) of this Subparagraph over Item (ii) of this Subparagraph as follows:

23 (i) A net level annual premium equal to the present value at the date of issue
24 of such benefits provided for after the first policy year, divided by the present value
25 at the date of issue of an annuity of one per annum payable on the first and each
26 subsequent anniversary of such policy on which a premium falls due; provided
27 however, that such net level annual premium shall not exceed the net level annual
28 premium on the nineteen year premium whole life plan for insurance of the same
29 amount at an age one year higher than the age at issue of such policy.

1 (ii) A net one year term premium for such benefits provided for in the first
2 policy year.

3 (b) Any life insurance policy issued on or after January 1, 1986, for which
4 the contract premium in the first policy year exceeds that of the second year and for
5 which no comparable additional benefit is provided in the first year for such excess
6 and which provides an endowment benefit or a cash surrender value, or a
7 combination thereof, in an amount greater than such excess premium, the reserve
8 according to the Commissioner's Reserve Valuation Method as of any policy
9 anniversary occurring on or before the assumed ending date defined herein as the
10 first policy anniversary on which the sum of any endowment benefit and any cash
11 surrender value then available is greater than such excess premium shall, except as
12 otherwise provided in Paragraph (8) of this Subsection be the greater of the reserve
13 as of such policy anniversary calculated as described in Subparagraph (a) of this
14 Paragraph and the reserve as of such policy anniversary calculated as described in
15 that Subparagraph, but with the value defined in that Subparagraph being reduced
16 by fifteen percent of the amount of such excess first year premium, all present values
17 of benefits and premiums being determined without reference to premiums or
18 benefits provided for by the policy after the assumed ending date, the policy being
19 assumed to mature on such date as an endowment, and the cash surrender value
20 provided on such date being considered as an endowment benefit. In making the
21 above comparison the mortality and interest bases stated in Paragraphs (1) and (3)
22 of this Subsection shall be used.

23 (c) Reserves according to the Commissioner's Reserve Valuation Method for
24 life insurance policies providing for a varying amount of insurance or requiring the
25 payment of varying premiums shall be calculated by a method consistent with the
26 principles of this Paragraph. Reserves for group annuity and pure endowment
27 contracts purchased under a retirement plan or plan of deferred compensation,
28 established or maintained by an employer, including a partnership or sole
29 proprietorship, or by an employee organization, or by both, other than a plan

1 providing individual retirement accounts or individual retirement annuities under
2 Section 408 of the Internal Revenue Code, as now or hereafter amended; disability
3 and accidental death benefits in all policies and contracts; and all other benefits,
4 except life insurance and endowment benefits in life insurance policies and benefits
5 provided by all other annuity and pure endowment contracts, shall be calculated by
6 a method consistent with the benefits granted and approved by the commissioner.

7 (5)(a) This Section shall apply to all annuity and pure endowment contracts
8 other than group annuity and pure endowment contracts purchased under a
9 retirement plan or plan of deferred compensation, established or maintained by an
10 employer (including a partnership or sole proprietorship) or by an employee
11 organization, or by both, other than a plan providing individual retirement accounts
12 or individual retirement annuities under Section 408 of the Internal Revenue Code,
13 as now or hereafter amended.

14 (b) Reserves according to the commissioner's annuity reserve method for
15 benefits under annuity or pure endowment contracts, excluding any disability and
16 accidental death benefits in such contracts shall be the greatest of the respective
17 excesses of the present values, at the date of valuation, of the future guaranteed
18 benefits, including guaranteed nonforfeiture benefits, provided for by such contracts
19 at the end of each respective contract year, over the present value, at the date of
20 valuation, of any future valuation considerations derived from future gross
21 considerations, required by the terms of such contract, that become payable prior to
22 the end of such respective contract year. The future guaranteed benefits shall be
23 determined by using the mortality table, if any, and the interest rate, or rates,
24 specified in such contracts for determining guaranteed benefits. The valuation
25 considerations are the portions of the respective gross considerations applied under
26 the terms of such contracts to determine nonforfeiture values.

27 (6)(a) An insurer's aggregate reserves for all life insurance policies,
28 excluding disability and accidental death benefits, shall in no event be less than the
29 aggregate reserves calculated in accordance with the methods set forth in Paragraphs

1 (4), (5), (8), and (10) of this Subsection and the mortality table or tables, and rate or
2 rates of interest used in calculating nonforfeiture benefits for such policies.

3 (b) In no event shall the aggregate reserves for all policies, contracts, and
4 benefits be less than the aggregate reserves determined to be necessary to render the
5 opinion required in R.S. 22:752.

6 (c) The commissioner of insurance shall promulgate a regulation containing
7 the minimum standards applicable to the valuation of health and accident plans.

8 (7) Reserves for any category of policies, contracts, or benefits may be
9 calculated at the option of the insurer according to any standards which produce
10 greater aggregate reserves for such category than those calculated according to the
11 minimum standard herein provided, but the rate or rates of interest used for policies
12 and contracts, other than annuity and pure endowment contracts, shall not be higher
13 but may be lower than the corresponding rate or rates of interest used in calculating
14 any nonforfeiture benefits provided for therein.

15 (8)(a) If in any contract year the gross premium charged by any life insurer
16 on any policy or contract is less than the valuation net premium for the policy or
17 contract calculated by the method used in calculating the reserve thereon but using
18 the minimum valuation standards of mortality and rate of interest, the minimum
19 reserve required for such policy or contract shall be the greater of either the reserve
20 calculated according to the mortality table, rate of interest, and method actually used
21 for such policy or contract, or the reserve calculated by the method actually used for
22 such policy or contract but using the minimum valuation standards of mortality and
23 rate of interest and replacing the valuation net premium by the actual gross premium
24 in each contract year for which the valuation net premium exceeds the actual gross
25 premium. The minimum valuation standards of mortality and rate of interest referred
26 to in this Paragraph are those standards stated in Paragraphs (1) and (3) of this
27 Subsection.

28 (b) Any life insurance policy issued on or after January 1, 1986, for which
29 the gross premium in the first policy year exceeds that of the second year and for

1 which no comparable additional benefit is provided in the first year for such excess
2 and which provides an endowment benefit or a cash surrender value or a
3 combination thereof in an amount greater than such excess premium, the foregoing
4 provisions of this Paragraph (8) of this Subsection shall be applied as if the method
5 actually used in calculating the reserve for such policy were the method described
6 in Paragraph (4) of this Subsection, ignoring Subparagraph (b) of that Paragraph. The
7 minimum reserve at each policy anniversary of such a policy shall be the greater of
8 the minimum reserve calculated in accordance with Paragraph (4) of this Subsection,
9 including Subparagraph (b) of that Paragraph, and the minimum reserve calculated
10 in accordance with this Paragraph (8) of this Subsection.

11 (9) Nothing in this Subsection shall apply to any policy issued by any insurer
12 subject to the provisions of Subparts D and E of Part I of this Chapter, R.S. 22:131
13 et seq. and R.S. 22:141 et seq., unless such insurer elects to comply with the standard
14 non-forfeiture law.

15 (10) In the case of any plan of life insurance which provides for future
16 premium determination, the amounts of which are to be determined by the insurer
17 based on then estimates of future experience, or in the case of any plan of life
18 insurance or annuity which is of such a nature that the minimum reserves cannot be
19 determined by the methods described in Paragraphs (4), (5), and (8) of this
20 Subsection, the reserves which are held under any such plan shall be appropriate in
21 relation to the benefits and the pattern of premiums for that plan, and shall be
22 computed by a method which is consistent with the principles of this Section as
23 determined by the commissioner.

24 C. **For policies issued on or after the operative date of the valuation**
25 **manual:**

26 **(1) The standard prescribed in the valuation manual is the minimum**
27 **standard of valuation required under R.S. 22:751(A), except as provided under**
28 **Paragraph (5) or (7) of this Subsection.**

29 **(2) The operative date of the valuation manual is January first of the**

1 first calendar year following the first July first as of which all of the following
2 have occurred:

3 (a) The valuation manual has been adopted by the NAIC by an
4 affirmative vote of at least forty-two members, or three-fourths of the members
5 voting, whichever is greater.

6 (b) The Standard Valuation Law, as amended by the NAIC in 2009, or
7 legislation including substantially similar terms and provisions, has been
8 enacted by states representing greater than seventy-five percent of the direct
9 premiums written as reported in the following annual statements submitted for
10 2008: life, accident and health annual statements; health annual statements; or
11 fraternal annual statements.

12 (c) The Standard Valuation Law, as amended by the NAIC in 2009, or
13 legislation including substantially similar terms and provisions, has been
14 enacted by at least forty-two of the fifty-five NAIC member jurisdictions.

15 (3) Unless a change in the valuation manual specifies a later effective
16 date, changes to the valuation manual shall be effective on January first
17 following the date when the change to the valuation manual has been adopted
18 by the NAIC by an affirmative vote representing:

19 (a) At least three-fourths of the members of the NAIC voting, but not
20 less than a majority of the total membership.

21 (b) Members of the NAIC representing jurisdictions totaling greater
22 than seventy-five percent of the direct premiums written as reported in the
23 following annual statements most recently available prior to the vote in
24 Subparagraph(a) of this Paragraph: life, accident and health annual statements,
25 health annual statements, or fraternal annual statements.

26 (4) For policies not subject to a principle-based valuation under
27 Subsection D of this Section, the minimum valuation standard shall use one of
28 the following:

29 (a) The minimum valuation standard that was in effect prior to the

1 operative date of the valuation manual.

2 (b) A reserve standard that quantifies the benefits, guarantees, and
3 funding associated with the contract risk and a level of conservatism that
4 reflects all unfavorable events that have a reasonable probability of occurring.

5 (5) In the absence of a specific valuation requirement, the company shall
6 comply with minimum valuation standards prescribed by the commissioner by
7 rule or regulation.

8 (6) The commissioner may engage a qualified actuary, at the expense of
9 the company, to perform an actuarial examination of the company and opine
10 on the appropriateness of any reserve assumption or method used by the
11 company, or to review and opine on a company's compliance with any valuation
12 requirement. The commissioner may rely upon the opinion of a qualified
13 actuary engaged by the commissioner of another state, district, or territory of
14 the United States.

15 (7) The commissioner may require a company to change any assumption
16 or method that in the opinion of the commissioner is necessary to comply with
17 the requirements of the valuation manual; and the company shall adjust the
18 reserves as required by the commissioner.

19 (8) Upon written application of a domestic insurer, the commissioner
20 may exempt the insurer or specific product forms or lines from the
21 requirements of this Subsection.

22 D. (1) For policies or contracts specified in the valuation manual as
23 being subject to principle-based valuation, a company shall establish reserves
24 that:

25 (a) Quantify the benefits, guarantees, and funding associated with the
26 contracts and their risk at a level of conservatism that reflects conditions that
27 include unfavorable events that have a reasonable probability of occurring
28 during the lifetime of the contracts, including conditions appropriately adverse
29 to quantify any significant tail risk.

1 **(b) Incorporate assumptions, risk analysis methods, financial models,**
2 **and management techniques that are consistent with, but not necessarily**
3 **identical to, those utilized within the company's overall risk assessment process,**
4 **while recognizing potential differences in financial reporting structures and any**
5 **prescribed assumptions or methods.**

6 **(c) Incorporate assumptions that are derived from one of the following:**

7 **(i) The valuation manual.**

8 **(ii) When not prescribed in the valuation manual, one of the following:**

9 **(aa) The company's available, relevant, and statistically credible**
10 **experience.**

11 **(bb) To the extent that company data are not available, relevant, or**
12 **statistically credible, other available, relevant, and statistically credible**
13 **experience.**

14 **(d) Provide margins for uncertainty including adverse deviation and**
15 **estimation error, such that the greater the uncertainty the larger the margin**
16 **and resulting reserve.**

17 **(2) As specified in the valuation manual, a company using a**
18 **principle-based valuation for one or more policies or contracts shall:**

19 **(a) Establish procedures for corporate governance and oversight of the**
20 **actuarial valuation function consistent with those described in the valuation**
21 **manual.**

22 **(b) Provide to the commissioner and the board of directors an annual**
23 **certification of the effectiveness of the principle-based valuation internal**
24 **controls. The controls shall be designed to assure that all material risks are**
25 **included in the valuation in accordance with the valuation manual. The**
26 **certification shall be based on the controls in place as of the end of the**
27 **preceding calendar year.**

28 **(c) Develop a principle-based valuation report that complies with**
29 **standards prescribed in the valuation manual and file it with the commissioner**

1 when requested.

2 (3) A principle-based valuation may include a prescribed formulaic
3 reserve component.

4 E. For policies in force on or after the operative date of the valuation
5 manual, a company shall submit mortality, morbidity, policyholder behavior,
6 or expense experience and other data as prescribed in the valuation manual.

7 F. Any such insurer which at any time shall have adopted any standard of
8 valuation producing greater aggregate reserves than those calculated according to the
9 minimum standard ~~herein~~ provided in this Section may, with the approval of the
10 commissioner of insurance, adopt any lower standard of valuation, but not lower than
11 the minimum ~~herein~~ in this Section. However, for the purposes of this Section, the
12 holding of additional reserves previously determined by a qualified actuary to be
13 necessary to render the opinion required by ~~the~~ this Subpart shall not be deemed to
14 be the adoption of a higher standard of valuation.

15 G. For purposes of this Subpart, "confidential information" shall mean:

16 (1) A memorandum in support of an opinion submitted under this
17 Section and any other documents, materials and other information, including
18 but not limited to all working papers, and copies thereof, created, produced or
19 obtained by or disclosed to the commissioner or any other person in connection
20 with such memorandum.

21 (2) All documents, materials and other information, including but not
22 limited to all working papers, and copies thereof, created, produced or obtained
23 by or disclosed to the commissioner or any other person in the course of an
24 examination made under this Section provided, however, that if an examination
25 report or other material prepared in connection with an examination made
26 under Chapter 8 of this Title is not held as private and confidential information
27 under Chapter 8 of this Title, an examination report or other material prepared
28 in connection with an examination made under this Section shall not be
29 confidential information to the same extent as if such examination report or

1 other material had been prepared under Chapter 8 of this Title.

2 (3) Any reports, documents, materials and other information developed
3 by a company in support of, or in connection with, an annual certification by
4 the company under this Section evaluating the effectiveness of the company's
5 internal controls with respect to a principle-based valuation and any other
6 documents, materials, and other information, including but not limited to all
7 working papers, and copies thereof, created, produced, or obtained by or
8 disclosed to the commissioner or any other person in connection with such
9 reports, documents, materials, and other information.

10 (4) Any principle-based valuation report developed under this Section
11 and any other documents, materials and other information, including but not
12 limited to all working papers, and copies thereof, created, produced, or obtained
13 by or disclosed to the commissioner or any other person in connection with such
14 report.

15 (5) Any documents, materials, data and other information submitted by
16 a company under this Section, to be known collectively as "experience data"
17 and any other documents, materials, data and other information, including but
18 not limited to all working papers, and copies thereof, created or produced in
19 connection with such experience data, in each case that include any potentially
20 company-identifying or personally identifiable information, that is provided to
21 or obtained by the commissioner (together with any experience data, the
22 experience materials) and any other documents, materials, data and other
23 information, including but not limited to all working papers, and copies thereof,
24 created, produced or obtained by or disclosed to the commissioner or any other
25 person in connection with such experience materials.

26 H. Privilege for, and confidentiality of, confidential information.

27 (1) Except as provided in this Section, a company's confidential
28 information is confidential by law and privileged, and shall not be subject to the
29 Public Records Law, R.S. 44:1.1 et seq., shall not be subject to subpoena, and

1 shall not be subject to discovery or admissible in evidence in any private civil
2 action; however, the commissioner is authorized to use the confidential
3 information in the furtherance of any regulatory or legal action brought against
4 the company as a part of the commissioner's official duties.

5 (2) Neither the commissioner nor any person who received confidential
6 information while acting under the authority of the commissioner shall be
7 permitted or required to testify in any private civil action concerning any
8 confidential information.

9 (3) In order to assist in the performance of the commissioner's duties,
10 the commissioner may share confidential information (a) with other state,
11 federal, and international regulatory agencies and with the NAIC and its
12 affiliates and subsidiaries and (b) in the case of confidential information
13 specified in Paragraphs (1) and (4) of Subsection G of this Section only, with the
14 Actuarial Board for Counseling and Discipline, or its successor, upon request
15 stating that the confidential information is required for the purpose of
16 professional disciplinary proceedings and with state, federal, and international
17 law enforcement officials; in the case of Subparagraphs (a) and (b) of this
18 Paragraph, provided that such recipient agrees, and has the legal authority to
19 agree, to maintain the confidentiality and privileged status of such documents,
20 materials, data, and other information in the same manner and to the same
21 extent as required for the commissioner.

22 (4) The commissioner may receive documents, materials, data and other
23 information, including otherwise confidential and privileged documents,
24 materials, data or information, from the NAIC and its affiliates and
25 subsidiaries, from regulatory or law enforcement officials of other foreign or
26 domestic jurisdictions, and from the Actuarial Board for Counseling and
27 Discipline, or its successor, and shall maintain as confidential or privileged any
28 document, material, data or other information received with notice or the
29 understanding that it is confidential or privileged under the laws of the

1 jurisdiction that is the source of the document, material or other information.

2 (5) The commissioner may enter into agreements governing sharing and
3 use of information consistent with this Subsection.

4 (6) No waiver of any applicable privilege or claim of confidentiality in
5 the confidential information shall occur as a result of disclosure to the
6 commissioner under this Section or as a result of sharing as authorized in
7 Paragraph (3) of this Subsection.

8 (7) A privilege established under the law of any state or jurisdiction that
9 is substantially similar to the privilege established under this Subsection shall
10 be available and enforced in any proceeding in, and in any court of, this state.

11 (8) In this Section "regulatory agency", "law enforcement agency" and
12 the "NAIC" include but are not limited to their employees, agents, consultants
13 and contractors.

14 I. Notwithstanding Subsection H of this Section, any confidential
15 information specified in Paragraphs (1) and (4) of Subsection G of this Section:

16 (1) May be subject to subpoena for the purpose of defending an action
17 seeking damages from the appointed actuary submitting the related
18 memorandum in support of an opinion submitted under R.S. 22:752 or
19 principle-based valuation report developed under this Section by reason of an
20 action required by this Subpart or by regulations promulgated hereunder.

21 (2) May otherwise be released by the commissioner with the written
22 consent of the company.

23 (3) Once any portion of a memorandum in support of an opinion
24 submitted under R.S. 22:752 or a principle-based valuation report developed
25 under this Section is cited by the company in its marketing or is publicly
26 volunteered to or before a governmental agency other than a state insurance
27 department or is released by the company to the news media, all portions of
28 such memorandum or report shall no longer be confidential.

29 J. For the purposes of this Subpart, the following definitions shall apply

1 on and after the operative date of the valuation manual:

2 (1) "Accident and health insurance" means contracts that incorporate
3 morbidity risk and provide protection against economic loss resulting from
4 accident, sickness, or medical conditions and as may be specified in the
5 valuation manual.

6 (2) "Appointed actuary" means a qualified actuary who is appointed in
7 accordance with the valuation manual to prepare the actuarial opinion required
8 by R.S. 22:752.

9 (3) "Company" means an entity that has written, issued, or reinsured
10 life insurance contracts, accident and health insurance contracts, or deposit-
11 type contracts and one of the following:

12 (a) At least one such policy or contract in force or on claim in this state.

13 (b) A requirement to hold a certificate of authority to write such policies
14 or contracts in this state and has written, issued, or reinsured such policies or
15 contracts in any state.

16 (4) "Deposit-type contract" means a contract that does not incorporate
17 mortality or morbidity risks and as may be specified in the valuation manual.

18 (5) "Life insurance" means contracts that incorporate mortality risk,
19 including annuity and pure endowment contracts, and as may be specified in the
20 valuation manual.

21 (6) "Policyholder behavior" means any action a policyholder, contract
22 holder, or any other person with the right to elect options, such as a certificate
23 holder, may take under a policy or contract subject to this Subpart including
24 but not limited to lapse, withdrawal, transfer, deposit, premium payment, loan,
25 annuitization, or benefit elections prescribed by the policy or contract but
26 excluding events of mortality or morbidity that result in benefits prescribed in
27 their essential aspects by the terms of the policy or contract.

28 (7) "Principle-based valuation" means a reserve valuation that uses one
29 or more methods or one or more assumptions determined by the insurer and is

1 required to comply with Subsection D of this Section as specified in the
2 valuation manual.

3 (8) "Qualified actuary" means an individual qualified to sign the
4 applicable statement of actuarial opinion in accordance with the American
5 Academy of Actuaries qualification standards for actuaries signing such
6 statements and meets the requirements specified in the valuation manual.

7 (9) "Tail risk" means risk that occurs either where the frequency of low
8 probability events is higher than expected under a normal probability
9 distribution or where there are observed events of very significant size or
10 magnitude.

11 (10) "Valuation manual" means the manual of valuation instructions
12 adopted by the NAIC as specified in this Subpart including any subsequent
13 amendments.

14 * * *

15 §936. Standard nonforfeiture law for life insurance

16 * * *

17 G.

18 * * *

19 (8) All adjusted premiums and present values referred to in this Section shall
20 be calculated for all policies of ordinary insurance on the basis of the
21 Commissioner's 1980 Standard Ordinary Mortality Table or at the election of the
22 insurer for any one or more specified plans of life insurance, the Commissioner's
23 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;
24 shall be calculated for all policies of industrial insurance on the basis of the
25 Commissioner's 1961 Standard Industrial Mortality Table; and shall be calculated
26 for all policies issued in a particular calendar year on the basis of a rate of interest
27 not exceeding the nonforfeiture interest rate as defined in this Subsection for policies
28 issued in that calendar year; however,

29 * * *

1 (f) Any For policies issued prior to the operative date of the valuation
2 manual, any ordinary life mortality tables, adopted after 1980, by the National
3 Association of Insurance Commissioners that are approved by the commissioner for
4 use in determining the minimum nonforfeiture standard may be substituted for the
5 Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year
6 Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance
7 Table.

8 (g) For policies issued on or after the operative date of the valuation
9 manual, the valuation manual shall provide the commissioners' standard
10 mortality table for use in determining the minimum nonforfeiture standard that
11 may be substituted for the Commissioner's 1980 Standard Ordinary Mortality
12 Table with or without Ten-Year Select Mortality Factors or for the
13 Commissioner's 1980 Extended Term Insurance Table. If the commissioner
14 approves by regulation any commissioners' standard ordinary mortality table
15 adopted by the National Association of Insurance Commissioners for use in
16 determining the minimum nonforfeiture standard for policies issued on or after
17 the operative date of the valuation manual, then that minimum nonforfeiture
18 standard shall supersede the minimum nonforfeiture standard provided by the
19 valuation manual.

20 (h) ~~Any~~ For policies issued prior to the operative date of the valuation
21 manual, any industrial life mortality tables adopted after 1980; by the National
22 Association of Insurance Commissioners that are approved by the commissioner for
23 use in determining the minimum nonforfeiture standard may be substituted for the
24 Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's
25 1961 Industrial Extended Term Insurance Table.

26 (i) For policies issued on or after the operative date of the valuation
27 manual, the valuation manual shall provide the commissioners' standard
28 mortality table for use in determining the minimum nonforfeiture standard that
29 may be substituted for the Commissioner's 1961 Standard Industrial Mortality

1 **Table or the Commissioner's 1961 Industrial Extended Term Insurance Table.**
 2 **If the commissioner approves by regulation any commissioners' standard**
 3 **industrial mortality table adopted by the National Association of Insurance**
 4 **Commissioners for use in determining the minimum nonforfeiture standard for**
 5 **policies issued on or after operative date of the valuation manual, then that**
 6 **minimum nonforfeiture standard shall supersede the minimum nonforfeiture**
 7 **standard provided by the valuation manual.**

8 (9)(a) **The For policies issued prior to the operative date of the valuation**
 9 **manual, the** nonforfeiture interest rate per annum for any policy issued in a
 10 particular calendar year shall be equal to one hundred and twenty five percent of the
 11 interest rate used in determining the minimum standard for the valuation of such
 12 policy as defined in the R.S. 22:753, rounded to the nearer one quarter of one
 13 percent.

14 **(b) For policies issued on or after the operative date of the valuation**
 15 **manual, the nonforfeiture interest rate per annum for any policy issued in a**
 16 **particular calendar year shall be provided by the valuation manual.**

17 * * *

18 J.

19 * * *

20 **(7) The operative date of the valuation manual as used in this Section**
 21 **shall be the date determined according to R.S. 22:753(C)(2).**

22 * * *

23 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

24 §4.1. Exceptions

25 * * *

26 B. The legislature further recognizes that there exist exceptions, exemptions,
 27 and limitations to the laws pertaining to public records throughout the revised
 28 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 29 limitations are hereby continued in effect by incorporation into this Chapter by

1 citation:

2 * * *

3 (11) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 572.1, 574, 618, 706, 732, 752,
4 **753**, 771, 1203, 1460, 1466, 1546, 1644, 1656, 1723, 1927, 1929, 1983, 1984, 2036,
5 2303

6 * * *

7 Section 3. This Act shall become effective on January 1, 2014; if vetoed by the
8 governor and subsequently approved by the legislature, this Act shall become effective on
9 January 1, 2014, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Cheryl Horne. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

Johns (SB 101)

Present law requires the commissioner to annually value, or cause to be valued, the reserve liabilities of all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company. Provides that the valuation method is rule and formula-based.

Proposed law requires the valuation method to be principles-based in accordance with a valuation manual approved by the National Association of Insurance Commissioners (NAIC) for all policies issued on or after the operative date of the valuation manual.

Present law sets standards for actuarial opinions of reserves.

Proposed law retains present law and requires every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts to annually submit the opinion of the appointed actuary as to whether the reserves are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with the laws of the state. Requires that each opinion of the appointed actuary issued on or after the operative date of the valuation manual meet specified requirements.

Present law provides for the determination of minimum reserves through a system of rules and formulas.

Proposed law retains present law and provides for principle-based reserve valuations for policies after the operative date of the valuation manual. Provides for alternative methods of valuation for policies not subject to principle-based valuation pursuant to the valuation manual. Provides for submission of mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed by the valuation manual for all policies in force on or after the operative date of the valuation manual.

Present law permits ordinary life mortality tables, adopted after 1980 by the NAIC that are approved by the commissioner for use in determining the minimum nonforefeiture standard to be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or

without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.

Proposed law retains present law and provides that if the commissioner approves by regulation any commissioners' standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual for all policies issued on or after the operative date of the valuation manual.

Effective January 1, 2014.

(Amends R.S. 22:752(A) and (D)(intro para), 753(B) and (C), 936(G)(8)(f) and (g) and (9), and 44:4.1(B)(11); adds R.S. 22:752(E) and (F), 753 (D), (E), (F), (G), (H), (I), and (J), and 936(G)(8)(h) and (i) and (J)(7))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Change application of new requirements from Jan. 1, 2015, to the operative date of the valuation manual.
2. Change effective date of the Act from Jan. 1, 2015, to Jan. 1, 2014.
3. Add definitions.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.
2. Changes "Monthly Average of the Composite Yield on Seasoned Bonds" to "Monthly Average of the Composite Yield on Seasoned Corporate Bonds".
3. Makes technical changes.