

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. (1/1/15)

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AN ACT

To amend and reenact R.S. 22:753(C) and 936(G)(8)(f) and (g) and (9) and to enact R.S. 22:751(G), 752(E) and (F), 753(D), (E), and (F), and 936(G)(8)(h) and (i), 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. 22:753(C) and 936(G)(8)(f) and (g) and (9) are hereby amended and reenacted and R.S. 22:751(G), 752(E) and (F), 753(D), (E), and (F), and 936(G)(8)(h) and (i) are hereby enacted to read as follows:

§751. Commissioner of insurance to make valuation

\* \* \*

**G. For all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after January 1, 2015:**

**(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called "reserves".**

1           **(2) In lieu of the valuation of the reserves required of a foreign or alien**  
2           **company by Paragraph (1) of this Subsection, the commissioner may accept a**  
3           **valuation made, or caused to be made, by the insurance supervisory official of**  
4           **any state or other jurisdiction when the valuation complies with the minimum**  
5           **standard provided in this Subpart.**

6           **(3) The provisions of R.S. 22:752(E) and (F) and R.S. 22:753(C) and (D)**  
7           **shall apply.**

8           **(4) The term "valuation manual" means the manual of valuation**  
9           **instructions adopted and as may be subsequently amended by the NAIC**  
10           **including any legislative and administrative changes made by this state.**

11           **(5) Unless a change in the valuation manual specifies an effective date,**  
12           **changes to the valuation manual shall be effective on the date prescribed by the**  
13           **commissioner.**

14           §752. Actuarial opinion reserves

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16           **E. Every company with outstanding life insurance contracts, accident**  
17           **and health insurance contracts, or deposit-type contracts in this state and**  
18           **subject to regulation by the commissioner shall annually:**

19           **(1) Submit the opinion and memorandum of the appointed actuary as to**  
20           **whether the reserves and related actuarial items held in support of the policies**  
21           **and contracts are computed appropriately, are based on assumptions that**  
22           **satisfy contractual provisions, are consistent with prior reported amounts, and**  
23           **comply with the laws of this state.**

24           **(2) Include in the opinion and memorandum required by Paragraph (1)**  
25           **of this Subsection, unless exempted in the valuation manual, an opinion of the**  
26           **same appointed actuary as to whether the reserves and related actuarial items**  
27           **held in support of the policies and contracts specified in the valuation manual,**  
28           **when considered in light of the assets held by the company in support of the**  
29           **reserves and related actuarial items, including but not limited to the investment**

1 earnings from the assets and the considerations anticipated to be received and  
2 retained under the policies and contracts, make adequate provision for the  
3 company's obligations under the policies and contracts, including but not  
4 limited to the benefits under and expenses associated with the policies and  
5 contracts.

6 F. Each opinion required by Subsection E of this Section shall be  
7 governed by the following:

8 (1) If the insurance company fails to provide a supporting memorandum  
9 at the request of the commissioner within a period specified in the valuation  
10 manual or the commissioner determines that the supporting memorandum  
11 provided by the insurance company fails to meet the standards prescribed by  
12 the valuation manual or is otherwise unacceptable to the commissioner, the  
13 commissioner may engage a qualified actuary at the expense of the company to  
14 review the opinion and the basis for the opinion and prepare the supporting  
15 memorandum required by the commissioner.

16 (2) The opinion and memorandum shall be in accordance with the form  
17 and substance prescribed in the valuation manual and acceptable to the  
18 commissioner.

19 (3) The opinion shall be submitted with the annual statement reflecting  
20 the valuation of such reserve liabilities for each year ending on or after January  
21 1, 2015.

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

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

28 (6) In the case of an opinion required to be submitted by a foreign or  
29 alien company, the commissioner may accept the opinion filed by that company

1 with the insurance supervisory official of another state if the commissioner  
2 determines that the opinion reasonably meets the requirements applicable to a  
3 company domiciled in this state.

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

8 (8) Disciplinary action by the commissioner against the company or the  
9 appointed actuary shall be in accordance with this Title and rules or regulations  
10 promulgated by the commissioner.

11 §753. Policies under standard valuation law

12 \* \* \*

13 C. (1) For policies issued on or after January 1, 2015, the standard  
14 prescribed in the valuation manual is the minimum standard of valuation  
15 required under R.S. 22:751(G), except as provided under Paragraph (3) or (5)  
16 of this Subsection.

17 (2) For policies not subject to a principle-based valuation under R.S.  
18 22:753(D) the minimum valuation standard shall use one of the following:

19 (a) The minimum valuation standard that was in effect prior to January  
20 1, 2015.

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

24 (3) In the absence of a specific valuation requirement, the company shall  
25 comply with minimum valuation standards prescribed by the commissioner.

26 (4) The commissioner may engage a qualified actuary, at the expense of  
27 the company, to perform an actuarial examination of the company and opine  
28 on the appropriateness of any reserve assumption or method used by the  
29 company, or to review and opine on a company's compliance with any valuation

1 requirement. The commissioner may rely upon the opinion of a qualified  
2 actuary engaged by the commissioner of another state, district, or territory of  
3 the United States.

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

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

10 (a) Quantify the benefits, guarantees, and funding associated with the  
11 contracts and their risk at a level of conservatism that reflects conditions that  
12 include unfavorable events that have a reasonable probability of occurring  
13 during the lifetime of the contracts, including significant tail risk.

14 (b) Incorporate assumptions, risk analysis methods, financial models,  
15 and management techniques that are consistent with, but not necessarily  
16 identical to, those utilized within the company's overall risk assessment process.

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

18 (i) The valuation manual.

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

20 (aa) The company's available, relevant, and statistically credible  
21 experience.

22 (bb) To the extent that company data is not available, relevant, or  
23 statistically credible, other available, relevant, and statistically credible  
24 experience.

25 (d) Provide margins for uncertainty including adverse deviation and  
26 estimation error, such that the greater the uncertainty the larger the margin  
27 and resulting reserve.

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

1                   **(a) Establish procedures for corporate governance and oversight of the**  
2                   **actuarial valuation function.**

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

8                   **(c) Develop a principle-based valuation report that complies with**  
9                   **standards prescribed in the valuation manual and file it with the commissioner**  
10                  **when requested.**

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

13                  **E. For policies in force on or after January 1, 2015, a company shall**  
14                  **submit mortality, morbidity, policyholder behavior, or expense experience and**  
15                  **other data as prescribed in the valuation manual.**

16                  **F.** Any such insurer which at any time shall have adopted any standard of  
17 valuation producing greater aggregate reserves than those calculated according to the  
18 minimum standard ~~herein~~ provided **in this Section** may, with the approval of the  
19 commissioner of insurance, adopt any lower standard of valuation, but not lower than  
20 the minimum ~~herein~~ **in this Section**. However, for ~~the~~ purposes of this Section, the  
21 holding of additional reserves previously determined by a qualified actuary to be  
22 necessary to render the opinion required by the Subpart shall not be deemed to be the  
23 adoption of a higher standard of valuation.

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25                   §936. Standard nonforfeiture law for life insurance

26   \*           \*           \*

27                   G.

28   \*           \*           \*

29                  (8) All adjusted premiums and present values referred to in this Section shall

1 be calculated for all policies of ordinary insurance on the basis of the  
2 Commissioner's 1980 Standard Ordinary Mortality Table or at the election of the  
3 insurer for any one or more specified plans of life insurance, the Commissioner's  
4 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;  
5 shall be calculated for all policies of industrial insurance on the basis of the  
6 Commissioner's 1961 Standard Industrial Mortality Table; and shall be calculated  
7 for all policies issued in a particular calendar year on the basis of a rate of interest  
8 not exceeding the nonforfeiture interest rate as defined in this Subsection for policies  
9 issued in that calendar year; however,

10 \* \* \*

11 (f) ~~Any~~ **For policies issued prior to January 1, 2015, any** ordinary life  
12 mortality tables, adopted after 1980, by the National Association of Insurance  
13 Commissioners that are approved by the commissioner for use in determining the  
14 minimum nonforfeiture standard may be substituted for the Commissioner's 1980  
15 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality  
16 Factors or for the Commissioner's 1980 Extended Term Insurance Table.

17 (g) **For policies issued on or after January 1, 2015, the valuation manual**  
18 **shall provide the commissioners' standard mortality table for use in**  
19 **determining the minimum nonforfeiture standard that may be substituted for**  
20 **the Commissioner's 1980 Standard Ordinary Mortality Table with or without**  
21 **Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended**  
22 **Term Insurance Table. If the commissioner approves by regulation any**  
23 **commissioners' standard ordinary mortality table adopted by the National**  
24 **Association of Insurance Commissioners for use in determining the minimum**  
25 **nonforfeiture standard for policies issued on or after January 1, 2015, then that**  
26 **minimum nonforfeiture standard shall supersede the minimum nonforfeiture**  
27 **standard provided by the valuation manual.**

28 (h) Any industrial life mortality tables adopted after 1980; by the National  
29 Association of Insurance Commissioners that are approved by the commissioner for

1 use in determining the minimum nonforfeiture standard may be substituted for the  
2 Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's  
3 1961 Industrial Extended Term Insurance Table.

4 **(i) For policies issued on or after January 1, 2015, the valuation manual**  
5 **shall provide the commissioners' standard mortality table for use in**  
6 **determining the minimum nonforfeiture standard that may be substituted for**  
7 **the Commissioner's 1961 Standard Industrial Mortality Table or the**  
8 **Commissioner's 1961 Industrial Extended Term Insurance Table. If the**  
9 **commissioner approves by regulation any commissioners' standard industrial**  
10 **mortality table adopted by the National Association of Insurance**  
11 **Commissioners for use in determining the minimum nonforfeiture standard for**  
12 **policies issued on or after January 1, 2015, then that minimum nonforfeiture**  
13 **standard shall supersede the minimum nonforfeiture standard provided by the**  
14 **valuation manual.**

15 (9)(a) ~~The~~ **For policies issued prior to January 1, 2015, the** nonforfeiture  
16 interest rate per annum for any policy issued in a particular calendar year shall be  
17 equal to one hundred and twenty five percent of the interest rate used in determining  
18 the minimum standard for the valuation of such policy as defined in the R.S. 22:753,  
19 rounded to the nearer one quarter of one percent.

20 **(b) For policies issued on or after January 1, 2015, the nonforfeiture**  
21 **interest rate per annum for any policy issued in a particular calendar year shall**  
22 **be provided by the valuation manual.**

23 \* \* \*

24 Section 2. This Act shall become effective on January 1, 2015; if vetoed by the  
25 governor and subsequently approved by the legislature, this Act shall become effective on  
26 January 1, 2015, or on the day following such approval by the legislature, whichever is later.



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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Horne.

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#### DIGEST

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 January 1, 2015.

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 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 January 1, 2015. 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 January 1, 2015.

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 nonforfeiture 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 January 1, 2015, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual for all policies issued on or after January 1, 2015.

Effective January 1, 2015.

(Amends R.S. 22:753(C) and 936(G)(8)(f) and (g) and (9) and to enact R.S. 22:751(G), 752(E) and (F), 753(D), (E), and (F), and 936(G)(8)(h) and (i))