

SENATE BILL NO. 101

BY SENATOR JOHNS

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. 22:752(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 computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by regulation shall define the specifics of this opinion and add any other items deemed to be necessary in its scope.

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D. Each opinion required by Subsections A and B of this Section shall be governed by the following provisions:

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2 **E. On and after the operative date of the valuation manual, every**
3 **company with outstanding life insurance contracts, accident and health**
4 **insurance contracts, or deposit-type contracts in this state and subject to**
5 **regulation by the commissioner shall annually:**

6 **(1) Submit an opinion of the appointed actuary as to whether the**
7 **reserves and related actuarial items held in support of the policies and contracts**
8 **are computed appropriately, are based on assumptions that satisfy contractual**
9 **provisions, are consistent with prior reported amounts, and comply with the**
10 **laws of this state.**

11 **(2) Include in the opinion required by Paragraph (1) of this Subsection,**
12 **unless exempted in the valuation manual, an opinion of the same appointed**
13 **actuary as to whether the reserves and related actuarial items held in support**
14 **of the policies and contracts specified in the valuation manual, when considered**
15 **in light of the assets held by the company in support of the reserves and related**
16 **actuarial items, including but not limited to the investment earnings from the**
17 **assets and the considerations anticipated to be received and retained under the**
18 **policies and contracts, make adequate provision for the company's obligations**
19 **under the policies and contracts, including but not limited to the benefits under**
20 **and expenses associated with the policies and contracts.**

21 **F. Each opinion required by Subsection E of this Section shall be**
22 **governed by the following:**

23 **(1) If the insurance company fails to provide a supporting memorandum**
24 **at the request of the commissioner within a period specified in the valuation**
25 **manual or the commissioner determines that the supporting memorandum**
26 **provided by the insurance company fails to meet the standards prescribed by**
27 **the valuation manual or is otherwise unacceptable to the commissioner, the**
28 **commissioner may engage a qualified actuary at the expense of the company to**
29 **review the opinion and the basis for the opinion and prepare the supporting**
30 **memorandum required by the commissioner.**

1 contracts shall be the ~~commissioner's reserve valuation methods~~ **Commissioner's**
2 **Reserve Valuation Methods** defined in Paragraphs (4), (5), and (8) of this
3 Subsection, five percent interest for group annuity and pure endowment contracts,
4 four percent interest for all other such policies and contracts, and four and one-half
5 percent interest for policies and contracts, other than annuities and pure endowment
6 contracts, issued on or after September 7, 1979, and the following tables:

7 (a) For all ordinary policies of life insurance issued on the standard basis,
8 excluding any disability and accidental death benefits in such policies: the
9 Commissioners 1941 Standard Ordinary Mortality Table for such policies issued
10 prior to September 7, 1979, the Commissioners 1958 Standard Ordinary Mortality
11 Table for such policies issued on or after September 7, 1979, and prior to January 1,
12 1989; provided that for any category of such policies issued on female risks, all
13 modified net premiums and present values referred to in this Section may be
14 calculated according to an age not more than six years younger than the actual age
15 of the insured; and for such policies issued on or after January 1, 1989, the
16 Commissioners 1980 Standard Ordinary Mortality Table, or, at the election of the
17 insurer for any one or more specified plans of life insurance, the Commissioners
18 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or
19 any ordinary mortality table adopted after 1980, by the National Association of
20 Insurance Commissioners that is approved by the commissioner.

21 (b) For all new industrial life insurance policies issued on the standard basis,
22 excluding any disability and accidental death benefits in such policies: the 1941
23 Standard Industrial Mortality Table for such policies issued prior to September 7,
24 1979, and for such policies issued on or after such effective date the Commissioners
25 1961 Standard Industrial Mortality Table or any industrial mortality table adopted
26 after 1980, by the National Association of Insurance Commissioners that is approved
27 by the commissioner.

28 (c) For individual annuity and pure endowment contracts, excluding any
29 disability and accidental death benefits in such policies: the 1937 Standard Annuity
30 Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949,

1 Ultimate, or any modification of either of these tables approved by the
2 commissioner.

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

8 (e) For total and permanent disability benefits in or supplementary to
9 ordinary policies or contracts: for policies or contracts issued on or after January 1,
10 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates
11 of the 1952 Disability Study of the Society of Actuaries, with due regard to the type
12 of benefit or any tables of disablement rates and termination rates adopted on or after
13 January 1, 1981, by the National Association of Insurance Commissioners that are
14 approved by the commissioner; for policies or contracts issued on or after January
15 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the
16 insurer, the Class (3) Disability Table (1926); and for policies issued prior to January
17 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives,
18 be combined with a mortality table authorized by this Subpart for calculating the
19 reserves for life insurance policies.

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

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

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

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

14 (ii) For individual single premium immediate annuity contracts issued on or
15 after September 7, 1979, excluding any disability and accidental death benefits in
16 such contracts: the 1971 Individual Annuity Mortality Table or any individual
17 annuity mortality table adopted on or after January 1, 1981, by the National
18 Association of Insurance Commissioners that is approved by the commissioner, or
19 any modification of these tables approved by the commissioner, and seven and one-
20 half percent interest.

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

30 (iv) For all annuities and pure endowments purchased prior to September 7,

1 1979, under group annuity and pure endowment contracts, excluding any disability
2 and accidental death benefits purchased under such contracts: the 1971 Group
3 Annuity Mortality Table, or any modification of this table approved by the
4 commissioner, and six percent interest.

5 (v) For all annuities and pure endowments purchased on or after September
6 7, 1979, under group annuity and pure endowment contracts, excluding any disability
7 and accidental death benefits purchased under such contracts: the 1971 Group
8 Annuity Mortality Table or any group annuity mortality table adopted on or after
9 January 1, 1981, by the National Association of Insurance Commissioners that is
10 approved by the commissioner, or any modification of these tables approved by the
11 commissioner, and seven and one-half percent interest.

12 (b) Any insurer may file with the commissioner a written notice of its
13 election to comply with the provisions of this Paragraph after a specified date before
14 January 1, 1981, which shall be the effective date of this Paragraph for such insurer;
15 provided, an insurer may elect a different effective date for individual annuity and
16 pure endowment contracts from that elected for group annuity and pure endowment
17 contracts. If an insurer makes no such election, the effective date of this Paragraph
18 for such insurer shall be January 1, 1981.

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

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

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

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

30 (iv) The net increase, if any, in a particular calendar year after January 1,

1 1983, in the amounts held under guaranteed interest contracts.

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

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

5
$$2$$

6 (bb) For single premium immediate annuities and for annuity benefits
7 involving life contingencies arising from other annuities with cash settlement options
8 and from guaranteed interest contracts with cash settlement options: $I = .03 + W (R -$
9 $.03)$ where R_1 is the lesser of R and $.09$; R_2 is the greater of R and $.09$; R is the
10 reference interest rate defined in Subparagraph (d) of this Paragraph; and W is the
11 weighting factor defined in Subparagraph (c) of this Paragraph.

12 (cc) For other annuities with cash settlement options and guaranteed interest
13 contracts with cash settlement options, valued on an issue year basis, except as stated
14 in Subitem (bb) of this Item, the formula for life insurance stated in Subitem (aa) of
15 this Item shall apply to annuities and guaranteed interest contracts with guarantee
16 durations in excess of ten years, and the formula for single premium immediate
17 annuities stated in Subitem (bb) of this Item shall apply to annuities and guaranteed
18 interest contracts with guarantee duration of ten years or less.

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

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

26 (ii) However, if the calendar year statutory valuation interest rate for any life
27 insurance policies issued in any calendar year determined without reference to this
28 Subparagraph differs from the corresponding actual rate for similar policies issued
29 in the immediately preceding calendar year by less than one-half of one percent, the
30 calendar year statutory valuation interest rate for such life insurance policies shall

1 then be equal to the corresponding actual rate for the immediately preceding calendar
 2 year. For purposes of applying this Subparagraph, the calendar year statutory
 3 valuation interest rate for life insurance policies issued in a calendar year shall be
 4 determined for 1980, by using the reference interest rate defined for 1979, and shall
 5 be determined for each subsequent calendar year.

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

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

12 (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
More than 20 years	.35

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

22 (ii) The weighting factor for single premium immediate annuities and for
 23 annuity benefits involving life contingencies arising from other annuities with cash
 24 settlement options and guaranteed interest contracts with cash settlement options is
 25 .80.

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

30 (aa) For annuities and guaranteed interest contracts valued on an issue year

1 basis:

2		<u>Weighting Factor</u>
3	<u>Guarantee</u>	<u>for Plan Type</u>
4	<u>Duration in Years</u>	<u>A B C</u>
5	5 years or less:	.80 .60 .50
6	More than 5 years, but not more than 10 years:	.75 .60 .50
7	More than 10 years, but not more than 20 years:	.65 .50 .45
8	More than 20 years:	.45 .35 .35

9 (bb) Plan Type
 10 A B C

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

14 (cc) Plan Type
 15 A B C

16 For annuities and guaranteed interest contracts valued on
 17 an issue year basis, other than those with no cash settlement
 18 options, which do not guarantee interest on considerations
 19 received more than one year after issue or purchase and for
 20 annuities and guaranteed interest contracts valued on a change
 21 in fund basis which do not guarantee interest rates on
 22 considerations received more than twelve months beyond
 23 the valuation date, the factors shown in Subitem (aa) or derived
 24 in Subitem (bb) increased by: .05 .05 .05

25 (dd) For other annuities with cash settlement options and guaranteed interest
 26 contracts with cash settlement options, the guarantee duration is the number of years
 27 for which the contract guarantees interest rates in excess of the calendar year
 28 statutory valuation interest rate for life insurance policies with guarantee duration in
 29 excess of twenty years. For other annuities with no cash settlement options and for
 30 guaranteed interest contracts with no cash settlement options, the guarantee duration

1 is the number of years from the date of issue or date of purchase to the date annuity
2 benefits are scheduled to commence.

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

4 Plan Type A: At any time the policyholder may withdraw funds only with
5 an adjustment to reflect changes in interest rates or asset
6 values since receipt of the funds by the insurer, or without
7 such adjustment but in installments over five years or more,
8 or as an immediate life annuity, or no withdrawal as
9 permitted.

10 Plan Type B: Before expiration of the interest rate guarantee, the
11 policyholder may withdraw funds only with an adjustment to
12 reflect changes in interest rates or asset values since receipt
13 of the funds by the insurer, or without such adjustment but in
14 installments over five years or more, or no withdrawal is
15 permitted. At the end of the interest rate guarantee, funds may
16 be withdrawn without such adjustment in a single sum or
17 installments over less than five years.

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

24 (ff) An insurer may elect to value guaranteed interest contracts with cash
25 settlement options and annuities with cash settlement options on either an issue year
26 basis or on a change in fund basis. Guaranteed interest contracts with no cash
27 settlement options and other annuities with no cash settlement options shall be
28 valued on an issue year basis. As used in this Paragraph, an issue year basis of
29 valuation refers to a valuation basis under which the interest rate used to determine
30 the minimum valuation standard for the entire duration of the annuity or guaranteed

1 interest contract is the calendar year valuation interest rate for the year of issue or
2 year of purchase of the annuity or guaranteed interest contract, and the change in
3 fund basis of valuation refers to a valuation basis under which the interest rate used
4 to determine the minimum valuation standard applicable to each change in the fund
5 held under the annuity or guaranteed interest contract is the calendar year valuation
6 interest rate for the year of the change in the fund.

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

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

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

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

27 (iv) For other annuities with cash settlement options and guaranteed interest
28 contracts with cash settlement options valued on a year of issue basis, except as
29 stated in Item (ii) of this Subparagraph, with guarantee duration of ten years or less,
30 the average over a period of twelve months, ending on June thirtieth of the calendar

1 year of issue or purchase, of the Monthly Average of the Composite Yield on
2 Seasoned **Corporate** Bonds, as published by Moody's Investors Service, Inc.

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

8 (vi) For other annuities with cash settlement options and guaranteed interest
9 contracts with cash settlement options, valued on a change in fund basis, except as
10 stated in (ii) above, the average over a period of twelve months, ending on June
11 thirtieth of the calendar year of the change in the fund, of the Monthly Average of
12 the Composite Yield on Seasoned **Corporate** Bonds as published by Moody's
13 Investors Service, Inc.

14 (e) In the event that the Monthly Average of the Composite Yield on
15 Seasoned **Corporate** Bonds is no longer published by Moody's Investors Service,
16 Inc., or in the event that the National Association of Insurance Commissioners
17 determines that the Monthly Average of the Composite Yield on Seasoned
18 **Corporate** Bonds as published by Moody's Investors Service, Inc. is no longer
19 appropriate for the determination of the reference interest rate, then an alternative
20 method for determination of the reference interest rate, which is adopted by the
21 National Association of Insurance Commissioners and approved by the
22 commissioner, shall be substituted.

23 (4)(a) Except as otherwise provided in Paragraphs (5), (6), and (8) of this
24 Subsection, reserves according to the Commissioner's Reserve Valuation Method for
25 the life insurance and endowment benefits of policies providing for a uniform
26 amount of insurance and requiring the payment of uniform premiums, shall be the
27 excess, if any, of the present value at the date of valuation of such future guaranteed
28 benefits provided for by such policies, over the then present value of any future
29 modified net premiums therefor. The modified net premiums for any such policy
30 shall be the uniform percentage of the respective contract premiums, excluding extra

1 premiums on substandard policies, for such benefits that, at the date of issue of the
2 policy, the present value of all modified net premiums shall be equal to the sum of
3 the then present value of such benefits provided for by the policy and the excess of
4 Item (i) of this Subparagraph over Item (ii) of this Subparagraph as follows:

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

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

14 (b) Any life insurance policy issued on or after January 1, 1986, for which
15 the contract premium in the first policy year exceeds that of the second year and for
16 which no comparable additional benefit is provided in the first year for such excess
17 and which provides an endowment benefit or a cash surrender value, or a
18 combination thereof, in an amount greater than such excess premium, the reserve
19 according to the Commissioner's Reserve Valuation Method as of any policy
20 anniversary occurring on or before the assumed ending date defined herein as the
21 first policy anniversary on which the sum of any endowment benefit and any cash
22 surrender value then available is greater than such excess premium shall, except as
23 otherwise provided in Paragraph (8) of this Subsection be the greater of the reserve
24 as of such policy anniversary calculated as described in Subparagraph (a) of this
25 Paragraph and the reserve as of such policy anniversary calculated as described in
26 that Subparagraph, but with the value defined in that Subparagraph being reduced
27 by fifteen percent of the amount of such excess first year premium, all present values
28 of benefits and premiums being determined without reference to premiums or
29 benefits provided for by the policy after the assumed ending date, the policy being
30 assumed to mature on such date as an endowment, and the cash surrender value

1 provided on such date being considered as an endowment benefit. In making the
2 above comparison the mortality and interest bases stated in Paragraphs (1) and (3)
3 of this Subsection shall be used.

4 (c) Reserves according to the Commissioner's Reserve Valuation Method for
5 life insurance policies providing for a varying amount of insurance or requiring the
6 payment of varying premiums shall be calculated by a method consistent with the
7 principles of this Paragraph. Reserves for group annuity and pure endowment
8 contracts purchased under a retirement plan or plan of deferred compensation,
9 established or maintained by an employer, including a partnership or sole
10 proprietorship, or by an employee organization, or by both, other than a plan
11 providing individual retirement accounts or individual retirement annuities under
12 Section 408 of the Internal Revenue Code, as now or hereafter amended; disability
13 and accidental death benefits in all policies and contracts; and all other benefits,
14 except life insurance and endowment benefits in life insurance policies and benefits
15 provided by all other annuity and pure endowment contracts, shall be calculated by
16 a method consistent with the benefits granted and approved by the commissioner.

17 (5)(a) This Section shall apply to all annuity and pure endowment contracts
18 other than group annuity and pure endowment contracts purchased under a
19 retirement plan or plan of deferred compensation, established or maintained by an
20 employer (including a partnership or sole proprietorship) or by an employee
21 organization, or by both, other than a plan providing individual retirement accounts
22 or individual retirement annuities under Section 408 of the Internal Revenue Code,
23 as now or hereafter amended.

24 (b) Reserves according to the commissioner's annuity reserve method for
25 benefits under annuity or pure endowment contracts, excluding any disability and
26 accidental death benefits in such contracts shall be the greatest of the respective
27 excesses of the present values, at the date of valuation, of the future guaranteed
28 benefits, including guaranteed nonforfeiture benefits, provided for by such contracts
29 at the end of each respective contract year, over the present value, at the date of
30 valuation, of any future valuation considerations derived from future gross

1 considerations, required by the terms of such contract, that become payable prior to
2 the end of such respective contract year. The future guaranteed benefits shall be
3 determined by using the mortality table, if any, and the interest rate, or rates,
4 specified in such contracts for determining guaranteed benefits. The valuation
5 considerations are the portions of the respective gross considerations applied under
6 the terms of such contracts to determine nonforfeiture values.

7 (6)(a) An insurer's aggregate reserves for all life insurance policies,
8 excluding disability and accidental death benefits, shall in no event be less than the
9 aggregate reserves calculated in accordance with the methods set forth in Paragraphs
10 (4), (5), (8), and (10) of this Subsection and the mortality table or tables, and rate or
11 rates of interest used in calculating nonforfeiture benefits for such policies.

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

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

17 (7) Reserves for any category of policies, contracts, or benefits may be
18 calculated at the option of the insurer according to any standards which produce
19 greater aggregate reserves for such category than those calculated according to the
20 minimum standard herein provided, but the rate or rates of interest used for policies
21 and contracts, other than annuity and pure endowment contracts, shall not be higher
22 but may be lower than the corresponding rate or rates of interest used in calculating
23 any nonforfeiture benefits provided for therein.

24 (8)(a) If in any contract year the gross premium charged by any life insurer
25 on any policy or contract is less than the valuation net premium for the policy or
26 contract calculated by the method used in calculating the reserve thereon but using
27 the minimum valuation standards of mortality and rate of interest, the minimum
28 reserve required for such policy or contract shall be the greater of either the reserve
29 calculated according to the mortality table, rate of interest, and method actually used
30 for such policy or contract, or the reserve calculated by the method actually used for

1 such policy or contract but using the minimum valuation standards of mortality and
2 rate of interest and replacing the valuation net premium by the actual gross premium
3 in each contract year for which the valuation net premium exceeds the actual gross
4 premium. The minimum valuation standards of mortality and rate of interest referred
5 to in this Paragraph are those standards stated in Paragraphs (1) and (3) of this
6 Subsection.

7 (b) Any life insurance policy issued on or after January 1, 1986, for which
8 the gross premium in the first policy year exceeds that of the second year and for
9 which no comparable additional benefit is provided in the first year for such excess
10 and which provides an endowment benefit or a cash surrender value or a
11 combination thereof in an amount greater than such excess premium, the foregoing
12 provisions of this Paragraph ~~(8) of this Subsection~~ shall be applied as if the method
13 actually used in calculating the reserve for such policy were the method described
14 in Paragraph (4) of this Subsection, ignoring Subparagraph (b) of that Paragraph. The
15 minimum reserve at each policy anniversary of such a policy shall be the greater of
16 the minimum reserve calculated in accordance with Paragraph (4) of this Subsection,
17 including Subparagraph (b) of that Paragraph, and the minimum reserve calculated
18 in accordance with this Paragraph ~~(8) of this Subsection~~.

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

23 (10) In the case of any plan of life insurance which provides for future
24 premium determination, the amounts of which are to be determined by the insurer
25 based on then estimates of future experience, or in the case of any plan of life
26 insurance or annuity which is of such a nature that the minimum reserves cannot be
27 determined by the methods described in Paragraphs (4), (5), and (8) of this
28 Subsection, the reserves which are held under any such plan shall be appropriate in
29 relation to the benefits and the pattern of premiums for that plan, and shall be
30 computed by a method which is consistent with the principles of this Section as

1 determined by the commissioner.

2 C. For policies issued on or after the operative date of the valuation
3 manual:

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

7 (2) The operative date of the valuation manual is January first of the
8 first calendar year following the first July first as of which all of the following
9 have occurred:

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

13 (b) The Standard Valuation Law, as amended by the NAIC in 2009, or
14 legislation including substantially similar terms and provisions, has been
15 enacted by states representing greater than seventy-five percent of the direct
16 premiums written as reported in the following annual statements submitted for
17 2008: life, accident and health annual statements; health annual statements; or
18 fraternal annual statements.

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

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

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

28 (b) Members of the NAIC representing jurisdictions totaling greater
29 than seventy-five percent of the direct premiums written as reported in the
30 following annual statements most recently available prior to the vote in

1 Subparagraph(a) of this Paragraph: life, accident and health annual statements,
2 health annual statements, or fraternal annual statements.

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

6 (a) The minimum valuation standard that was in effect prior to the
7 operative date of the valuation manual.

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

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

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

21 (7) The commissioner may require a company to change any assumption
22 or method that in the opinion of the commissioner is necessary to comply with
23 the requirements of the valuation manual, and the company shall adjust the
24 reserves as required by the commissioner.

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

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

30 (a) Quantify the benefits, guarantees, and funding associated with the

1 contracts and their risk at a level of conservatism that reflects conditions that
2 include unfavorable events that have a reasonable probability of occurring
3 during the lifetime of the contracts, including conditions appropriately adverse
4 to quantify any significant tail risk.

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

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

11 (i) The valuation manual.

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

13 (aa) The company's available, relevant, and statistically credible
14 experience.

15 (bb) To the extent that company data are not available, relevant, or
16 statistically credible, other available, relevant, and statistically credible
17 experience.

18 (d) Provide margins for uncertainty including adverse deviation and
19 estimation error, such that the greater the uncertainty the larger the margin
20 and resulting reserve.

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

23 (a) Establish procedures for corporate governance and oversight of the
24 actuarial valuation function consistent with those described in the valuation
25 manual.

26 (b) Provide to the commissioner and the board of directors an annual
27 certification of the effectiveness of the principle-based valuation internal
28 controls. The controls shall be designed to assure that all material risks are
29 included in the valuation in accordance with the valuation manual. The
30 certification shall be based on the controls in place as of the end of the

1 preceding calendar year.

2 (c) Develop a principle-based valuation report that complies with
 3 standards prescribed in the valuation manual and file it with the commissioner
 4 when requested.

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

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

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

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

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

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

1 in connection with an examination made under this Section shall not be
2 confidential information to the same extent as if such examination report or
3 other material had been prepared under Chapter 8 of this Title.

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

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

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

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

29 (1) Except as provided in this Section, a company's confidential
30 information is confidential by law and privileged, and shall not be subject to the

1 Public Records Law, R.S. 44:1.1 et seq., shall not be subject to subpoena, and
2 shall not be subject to discovery or admissible in evidence in any private civil
3 action; however, the commissioner is authorized to use the confidential
4 information in the furtherance of any regulatory or legal action brought against
5 the company as a part of the commissioner's official duties.

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

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

23 (4)(a) The commissioner may receive documents, materials, data and
24 other information, including otherwise confidential and privileged documents,
25 materials, data or information, from the NAIC and its affiliates and
26 subsidiaries, from regulatory or law enforcement officials of other foreign or
27 domestic jurisdictions, and from the Actuarial Board for Counseling and
28 Discipline, or its successor, and shall maintain as confidential or privileged any
29 document, material, data or other information received with notice or the
30 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 (b) The commissioner may enter into agreements governing sharing and
3 use of information consistent with this Subsection.

4 (5) The commissioner shall have the authority to promulgate rules and
5 regulations to register and regulate health insurance navigators that receive
6 funding or certification from any state or federal governmental agency.
7 Implementation of any rule or regulation relative to health insurance navigators
8 shall be subject to legislative oversight by the House and Senate committees on
9 insurance pursuant to the Administrative Procedure Act, R.S. 49:968 et seq.
10 The House and Senate committees on insurance, meeting jointly, shall conduct
11 a hearing to review any proposed rules and regulations and determine whether
12 the rules or regulations are acceptable or unacceptable. No rule or regulation
13 promulgated pursuant to this Paragraph shall become effective before the
14 required hearing to determine acceptability has been conducted.

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

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

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

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

27 (1) May be subject to subpoena for the purpose of defending an action
28 seeking damages from the appointed actuary submitting the related
29 memorandum in support of an opinion submitted under R.S. 22:752 or
30 principle-based valuation report developed under this Section by reason of an

1 action required by this Subpart or by regulations promulgated hereunder.

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

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

10 J. For the purposes of this Subpart, the following definitions shall apply
11 on and after the operative date of the valuation manual:

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

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

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

22 (a) Has at least one such policy or contract in force or on claim in this
23 state.

24 (b) Meets the requirement to hold a certificate of authority to write such
25 policies or contracts in this state and has written, issued, or reinsured such
26 policies or contracts in any state.

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

29 (5) "Life insurance" means contracts that incorporate mortality risk,
30 including annuity and pure endowment contracts, and as may be specified in the

1 valuation manual.

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

9 (7) "Principle-based valuation" means a reserve valuation that uses one
 10 or more methods or one or more assumptions determined by the insurer and is
 11 required to comply with Subsection D of this Section as specified in the
 12 valuation manual.

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

17 (9) "Tail risk" means risk that occurs either when the frequency of low
 18 probability events is higher than expected under a normal probability
 19 distribution or when there are observed events of very significant size or
 20 magnitude.

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

24 * * *

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
 30 be calculated for all policies of ordinary insurance on the basis of the

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

9 * * *

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

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

29 (h) Any For policies issued prior to the operative date of the valuation
 30 manual, any industrial life mortality tables adopted after 1980; by the National

1 Association of Insurance Commissioners that are approved by the commissioner for
2 use in determining the minimum nonforfeiture standard may be substituted for the
3 Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's
4 1961 Industrial Extended Term Insurance Table.

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

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

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

25 * * *

26 J.

27 * * *

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

30 * * *

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

2 §4.1. Exceptions

3 * * *

4 B. The legislature further recognizes that there exist exceptions, exemptions,
5 and limitations to the laws pertaining to public records throughout the revised
6 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
7 limitations are hereby continued in effect by incorporation into this Chapter by
8 citation:

9 * * *

10 (11) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 572.1, 574, 618, 706, 732, 752,
11 **753**, 771, 1203, 1460, 1466, 1546, 1644, 1656, 1723, 1927, 1929, 1983, 1984, 2036,
12 2303

13 * * *

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____