

Regular Session, 2009

HOUSE BILL NO.

BY

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

INSURANCE: Provides for technical recodification of the Insurance Code

1 AN ACT

2 To amend and reenact R.S. 22:2, 3, 11, 12, 14(A)(introductory paragraph) and (4) and (B),

3 16, 18, 19, 23(A), (B), (C), and (D)(2), 24, 31, 32(B), (C), and (E),

4 33(A)(introductory paragraph), 41(6) and (13), 43(B)(2), 46(1), (4), (5), (7), (8),

5 (9)(b), (c), and (d), (11), (12), (13), and (15), 47(2), (3), (6), (8), (10)(b), (12), and

6 (13)(a), 48(A), 61, 62(7) and (11), 63, 65(11)(c), 67(C), 68(C)(1), 69, 71, 72(C), 73,

7 81, 82(B), (C)(1)(a) and (b), and (D), 86, 88, 91, 94, 96(A), 111, 112(B) and (D),

8 116, 117, 119, 120(6), 124, 132(A), (B), and (D), 133, 135, 141, 142(C), 143(A)(4),

9 146(B), 148, 149, 150, 161, 165, 168, 169(B), 171, 172, 175(introductory

10 paragraph), 176, 177(B), 183, the title of Subpart G of Part I of Chapter 2 of Title 22

11 of the Revised Statutes of 1950, R.S. 22:191 through 194, 195(A) and (B)(1) and (2),

12 196, 197(A), 198 through 202, 204, 206, 208, 210(introductory paragraph), 211

13 through 215, 216(A) and (B), 236(11), 236.3(A), (B), and (D), 236.4(A), 242(3), (6),

14 and (7), 243(D)(1) and (E)(3), 247, 249, 250(B), 252(C)(3) and (4), 254(C)(1), 255,

15 256(A), 260(A), 262(C), 266, 270(A), 272(F), 290(introductory paragraph) and (6),

16 310(A)(2), (B), and (D), 313, 331, 332(A)(4), 333(B) and (C), 337(A)(18) and (B),

17 340(A)(introductory paragraph), 347(D)(1) 361(4) and (5), 364(introductory

18 paragraph) and (1), 365(A) and (C) through (F), 369(2) and (4), 371(A), R.S.

19 22:381(3), 384(introductory paragraph) and (1), 385(C), (D), and (E), 388.1, 393(A),

20 409, 413, 432, 433(A), 434, 435(B)(1)(a) and (b), (D), and (H)(1)(introductory

1 paragraph) and (2), 436(A), (D)(2), and (G), 437, 438(A), 439(B) and (C), 440,
2 441(A)(3), (B), (C), and (D), 442(A), 443(A)(introductory paragraph) and (B), 445,
3 the Title of Subpart P of Part I of Title 22 of the Louisiana Revised Statutes of 1950,
4 R.S. 22:451, 453(A), 455, 456, 457, 460(B) and (C), 461(A), (F), (G), (H), and (I),
5 465, 466, 467, 469(A), 481, 482(3)(introductory paragraph) and (12)(g)(ii), 483(A),
6 484(B)(1) and (2), (D)(1) and (2)(introductory paragraph), (H), and (K),
7 485(introductory paragraph), 490, 491(A) and (C), 492, 493, 494, 498(B), 511(B),
8 512(5), (6), (7), (8), (14), (16), and (17)(b)(introductory paragraph), 513,
9 515(C)(1)(introductory paragraph) and (b), 517, 518, 519, 520(A)(introductory
10 paragraph) and (7) and (B), 521(A)(introductory paragraph), (B), and (D), 522, 523,
11 524, 525, 526(A), 527, 528(1) and (2), 529, 530, 531(A), 532(A)(introductory
12 paragraph), (1)(introductory paragraph) and (a) and (3)(b) and (B)(2), (3)(b), (d),
13 and (k)(introductory paragraph) and (ii), 533, 534, 536(A)(introductory paragraph)
14 and (2), (B), and (D), the Title of Part II of Chapter 2 of the Louisiana Revised
15 Statutes of 1950, R.S. 22:551, 552(2), (4), and (5), 553, 554(A), (B), and (D), 555,
16 and 556(A), (B), (C), and (D), 571, 574(B)(1) and (D), 583, 584(A)(4), (5)(a)(i),
17 (b)(introductory paragraph), and (h), (6), (9), and (13), (B), (D)(1)(b), (G)(2), (3),
18 and (6), (L)(2), and (N), 586(B)(introductory paragraph), 588(A)(5), 589(A) and (B),
19 590(A), 593, 596, 598(introductory paragraph) and (8), 599(5), 601(F)(1), 22:611(4)
20 and (11)(b), 613(A)(2) and (B)(1), 615(B), 616(B), 617(introductory paragraph),
21 618(A), 619(A), 620(C), 631(4) and (6), 631(4) and (6), 634(A)(introductory
22 paragraph) and (1), (B)(introductory paragraph) and (1) and (2), and (C)(1),
23 635(A)(introductory paragraph) and (1), (6)(b) and (8), (B)(introductory paragraph),
24 and (C)(1), 636(A)(introductory paragraph) and (1) and (B), 637(A)(introductory
25 paragraph) and (1) and (B), 638(2)(b) and (3), 651(D)(1), 654(A)(1), 661, 672, 673,
26 674(A)(3) and (B), 693(B)(2)(introductory paragraph), 694(D)(1)(introductory
27 paragraph), 696(C), 699, 701, 703(A)(1)(b), 704(B)(2)(a)(introductory paragraph)
28 and (b), 709(B), 710, 714, 715, 722, 723, 731(A)(3), 751(E)(introductory paragraph)
29 and (F), 752(A), (B)(1), and (D)(1), 753(B)(1)(a), (b), (e), and (f), (2)(introductory

1 paragraph) and (ii), (iii), and (v), (3)(a), (b)(i) and (ii), (c)(introductory paragraph)
 2 and (iii), (d)(iii) and (iv), (4)(a)(introductory paragraph), (b), and (c), (6)(a), (8)(b),
 3 (9), and (10), 754, 763, 768, 769, 770, 771, 781(C), (I)(3), and (J), 791 through 796,
 4 802, 809(A), 821, 831, 832(A) and (B), 833(A), (B), and (C)(1), 834(B)(1) and (2),
 5 835(A) and (C), 838, 839, 840, 842, 844, 845, and 846(A) and (B); to enact R.S.
 6 22:46(19), (20), and (21), 74, and 971.1; and to repeal R.S. 22:15, 22, 49, 64(C),
 7 65(5) and (7), 169, 246(D), 261, 435(B)(5), 454(E), 469(D), 487, 497, 554(E),
 8 584(A)(16), 595, 724, 751(E)(5), and 753(B)(2)(b); all relative to technical
 9 recodification of the Louisiana Insurance Code; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. are hereby amended and reenacted and are hereby enacted
 12 to read as follows:

13 §2. Insurance regulated in the public interest

14 A.(1) Insurance is an industry affected with the public interest and it is the
 15 purpose of this Code to regulate that industry in all its phases. Pursuant to the
 16 authority contained in the Constitution of Louisiana, the office of the commissioner
 17 of insurance is created. It shall be the duty of the commissioner of insurance to
 18 administer the provisions of this Code. The term of office of the commissioner shall
 19 be four years and said officer shall be elected at the election for governor and other
 20 state officers.

21 (2) The commissioner shall appoint a chief deputy commissioner and also
 22 an assistant to the commissioner, both of whom shall serve at his pleasure and whose
 23 salaries and duties shall be fixed by him.

24 (3) The chief deputy commissioner shall have the authority to perform all the
 25 acts and duties of the office of the commissioner of insurance in the absence of the
 26 commissioner of insurance, in case of his inability to act, or under his direction.

27 ~~B. The duties and functions relating to insurance heretofore vested in and~~
 28 ~~attached to the office of the Secretary of State by authority of Section 20 of Article~~
 29 ~~V of the Constitution of Louisiana and all duties and functions relative to insurance~~

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

1 matters heretofore performed by the secretary of state are hereby transferred to the
2 office of the ~~Commissioner of Insurance~~ created by this Code. No compensation
3 shall be paid to the secretary of state in connection with insurance matters after the
4 effective date of this Code.

5 ~~C. All books, papers, records, moneys, choses in action, and any other~~
6 ~~property heretofore used or possessed by any agency or person in the exercise of the~~
7 ~~duties and functions hereby transferred shall be transferred to and become the~~
8 ~~property of the office of the commissioner of insurance created herein.~~

9 ~~All fees, revenues, appropriations, dedicated revenues and other funds having~~
10 ~~to do with insurance matters heretofore under the authority of any agency or person~~
11 ~~in the exercise of functions hereby transferred, are hereby transferred to the office~~
12 ~~of the commissioner of insurance.~~

13 ~~D. All employees heretofore engaged in the performance of duties, in any~~
14 ~~agency, in the exercise of functions transferred by this Code shall be transferred with~~
15 ~~such functions to the office of the commissioner of insurance and, so far as~~
16 ~~practicable, shall continue to perform the duties heretofore performed.~~

17 ~~E. Upon the transfer of functions, any pending or unfinished business shall~~
18 ~~be taken over and completed by the commissioner of insurance, with the same power~~
19 ~~and authority as the agency from which the functions are transferred. The~~
20 ~~commissioner of insurance shall be the successor in every way to the agency from~~
21 ~~which such functions are transferred, and every act done in the exercise of such~~
22 ~~functions by the commissioner of insurance shall be deemed to have the same force~~
23 ~~and effect under any provisions of law in effect as if done by the agency from which~~
24 ~~such functions are transferred. Whenever any agency from which functions are~~
25 ~~transferred is referred to, or designated by any law or contract or other document,~~
26 ~~such reference or designations shall be deemed to apply to the commissioner of~~
27 ~~insurance. Whenever the secretary of state is referred to, or designated by any law~~
28 ~~or contract or other document, such reference or designation shall be deemed to~~
29 ~~apply to the commissioner of insurance.~~

1 F. In addition to any other authority granted by this Title, the Department of
2 Insurance is hereby authorized to regulate the coordination of medical, surgical, and
3 hospital benefits of a self-insurance plan with such benefits of any other insurance
4 plan. For purposes of this Subsection, a self-insurance plan shall be defined as any
5 plan by a person, partnership, corporation or other organization, or the state of
6 Louisiana, other than a domestic or foreign insurance company which has qualified
7 with the Department of Insurance, which provides or contracts to provide coverage
8 as a self-insurer for his or its employees, stockholders, or any other persons. This
9 Subsection shall not apply to: (1) the Office of Group Benefits, or (2) any plan of
10 a labor organization or fraternal organization to the extent that it provides benefits
11 to its members or the immediate family of its members, which benefits are
12 supplemental to an employer-sponsored benefit plan.

13 G.(1) Notwithstanding any other provision of law to the contrary, any entity
14 issuing or providing coverage in this state for health care services, whether the
15 coverage is by direct payment of or reimbursement for expenses incurred for such
16 services, or otherwise, shall be presumed to be subject to the jurisdiction of the
17 commissioner of insurance, unless the entity shows that, while providing the
18 coverage, it is subject to the jurisdiction of another department or agency of the state,
19 or any political subdivision of this state, or of the federal government.

20 (2) An entity providing or issuing coverage for health care services in this
21 state as described in Paragraph (1) of this Subsection may show that it is subject to
22 the jurisdiction of another department or agency of this state, any political
23 subdivision of this state, or the federal government by submitting to the
24 commissioner of insurance the appropriate certificate, license, or other document or
25 documentary evidence issued by such other governmental entity that authorizes or
26 qualifies it to issue or provide such coverage.

27 (3) Proof of jurisdiction by such other governmental agency shall be
28 submitted to the commissioner of insurance prior to the issuance or provision in this
29 state of any coverage as described in this Subsection. The commissioner of

1 insurance may take any action as may be authorized in this Title to enforce the
2 provisions of this Subsection.

3 (4) ~~Any entity that fails to show that it is subject to the jurisdiction of any
4 other governmental entity as described in this Subsection shall be subject to all
5 appropriate provisions of this Title and shall submit to an examination by the
6 commissioner of insurance to determine its organization and solvency and whether
7 it is in compliance with the applicable provisions of this Title.~~

8 H. ~~In addition to any other powers granted by the Louisiana Insurance Code,
9 the commissioner of insurance is hereby empowered to promulgate any rule or
10 regulation necessary to meet the requirements for the accreditation of the Louisiana
11 Department of Insurance under the National Association of Insurance
12 Commissioners, Financial Regulation Standards and Accreditation Program. Such
13 implementation shall be subject to the legislative oversight of the Senate and House
14 Committees on Insurance in accordance with R.S. 49:968.~~

15 F. B. The commissioner shall maintain, as confidential, any document or
16 information received from the National Association of Insurance Commissioners,
17 insurance department of other states, international, federal, or state law enforcement
18 agencies, and international, federal, or state regulatory agencies with statutory
19 oversight over the financial services industry, which is confidential under the law of
20 the state that sent the document or the applicable laws and regulations of the federal
21 agency. The commissioner may provide documents or information, including
22 otherwise confidential documents or information, to state, federal, or international
23 law enforcement agencies, to the National Association of Insurance Commissioners,
24 insurance departments of other states, or to other state, federal, or international
25 regulatory agencies with statutory oversight over the financial services industry,
26 including but not limited to the Louisiana Office of Financial Institutions, if the
27 recipient agrees to maintain the confidentiality of those documents which are
28 confidential under the laws of this state. The sharing of confidential or privileged
29 information in accordance with this Subsection shall not be deemed a waiver of any

1 privilege or claim of confidentiality in the documents, materials, or information. The
2 commissioner is authorized to use such documents, materials, or other information
3 in the furtherance of any regulatory or legal action brought as part of the
4 commissioner's official duties.

5 ~~¶ C.~~ The commissioner of insurance shall assess every insurer subject to the
6 jurisdiction of the Department of Insurance, as provided by law.

7 ~~¶ D.~~ Subject to the exceptions contained in Article VII, Section 9 of the
8 Constitution of Louisiana, all monies, funds, proceeds, and fees except for insurance
9 premium taxes, and dedicated funds for the Municipal Police Employee's Retirement
10 System, Sheriff's Pension and Relief Fund, and the Firefighters' Retirement System
11 received or collected by the commissioner under the provisions of this Title shall be
12 deposited immediately upon receipt into the state treasury and shall be credited to the
13 Bond Security and Redemption Fund.

14 E. The commissioner of insurance shall have the authority to make
15 reasonable rules and regulations, not inconsistent with law, to enforce, carry out, and
16 make effective the implementation of this Code.

17 §3. Composition of Department of Insurance

18 The Department of Insurance shall be comprised of the office of the
19 commissioner, the office of management and finance, the office of property and
20 casualty, the office of receivership, the office of licensing and compliance, the office
21 of financial solvency, the office of consumer advocacy, the office of health
22 insurance, the division of legal services, the division of public affairs, the division
23 of minority affairs, and any other office or division that may be included by the
24 Executive Reorganization Act or other law. Each office or division shall be
25 administered as prescribed by Titles 36 and 39 of the Louisiana Revised Statutes of
26 1950.

27 ~~§11. Compliance with Code required; rules~~ Rules and regulations by commissioner

28 ~~No person shall be authorized to transact or shall transact a business of~~
29 ~~insurance in this state without complying with the provisions of this Code.~~

1 A. The commissioner of insurance may promulgate rules and regulations that
2 he determines are necessary for implementation of this Title. Such implementation
3 shall be subject to the legislative oversight of the House of Representatives and
4 Senate committees on insurance in accordance with R.S. 49:968.

5 B. In addition to any other powers granted by the Louisiana Insurance Code,
6 the commissioner of insurance is hereby empowered to promulgate any rule or
7 regulation necessary to meet the requirements for the accreditation of the Louisiana
8 Department of Insurance under the National Association of Insurance
9 Commissioners, Financial Regulation Standards and Accreditation Program. Such
10 implementation shall be subject to the legislative oversight of the Senate and House
11 Committees on Insurance in accordance with R.S. 49:968.

12 §12. Insurer's qualification required; compliance with Code required

13 No person shall act as an insurer in this state unless properly qualified as an
14 insurer of a type permitted under the provisions of this Code. No person shall be
15 authorized to transact or shall transact a business of insurance in this state without
16 complying with the provisions of this Code.

17 * * *

18 §14. Violations reported by employees; retaliation by insurer prohibited

19 A. Any insurer transacting business in this state is prohibited from penalizing
20 any of its employees for reporting to the commissioner of insurance or other
21 appropriate authorities, in good faith, a suspected violation of this Code, or any law
22 in ~~Title 22 of the Louisiana Revised Statutes of 1950~~ this Title relative to required
23 reserves, capital, assets, deposits, minimum and operating surplus, investments, and
24 separate accounts of entities regulated by the Department of Insurance, illegal
25 discrimination against a person, or other prohibitory provisions that provide criminal
26 penalties for their violation, or any rule with criminal sanctions adopted by the
27 commissioner of insurance. For purposes of this Section, "penalize" or "penalizing"
28 shall include:

29 * * *

1 (4) Threatening to take any of the actions described in Paragraphs (1)
 2 through (3) ~~above~~: of this Subsection.

3 B. Whenever the commissioner of insurance, a state agency, or law
 4 enforcement agency conducts an investigation based upon a written sworn report or
 5 with the participation of an employee as provided in this Section, it may not disclose
 6 the identity of the employee without the employee's consent. If it is determined that
 7 such disclosure is required for an administrative proceeding or criminal prosecution
 8 based upon the findings of the investigation, then the person or entity conducting the
 9 investigation shall notify the employee prior to disclosure of the employee's identity.
 10 Any proceeding or hearing by the commissioner of insurance under this Section shall
 11 be conducted in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

12 * * *

13 §16. Failure to comply with written orders or directives; penalties

14 If any insurance company or rating organization fails to comply with a
 15 written directive or order issued by the commissioner of insurance pursuant to this
 16 Subpart within thirty days of the issuance thereof, the commissioner may levy and
 17 receive a fine of up to twenty-five thousand dollars. The penalty shall not be
 18 imposed until such time that the commissioner makes a finding that the penalty is
 19 warranted in a proper hearing, held in the manner provided in Chapter 12 of this
 20 Title, R.S. 22:2191 et seq.

21 * * *

22 §18. Suspension or revocation of insurers' licenses; fines

23 A. The commissioner of insurance may refuse to renew, or may suspend, or
 24 revoke the certificate of authority of any insurer violating any of the provisions of
 25 this Code, or in lieu of suspension or revocation of a license duly issued, the
 26 commissioner may levy a fine not to exceed one thousand dollars for each violation
 27 per insurer, up to one hundred thousand dollars aggregate for all violations in a
 28 calendar year per insurer, when such violations, in his opinion, after a proper
 29 hearing, warrant the refusal, suspension, or revocation of such certificate, or the

1 imposition of the fine. The commissioner of insurance is authorized to withhold
2 fines imposed under this Section. Such hearing shall be held in the manner provided
3 in Chapter 12 of this Title, R.S. 22:2191 et seq.

4 B. The commissioner may deny, refuse to renew, suspend, or revoke any
5 certificate of authority of any health insurer that writes a ~~sub-line~~ limited benefit line
6 of health insurance or otherwise issues a health policy in the same ~~sub-line~~ limited
7 benefit line in the state or for a citizen of the state within five years after it has
8 ceased to write such ~~sub-line~~ limited benefit line of health insurance in the state. A
9 ~~sub-line~~ limited benefit line of health insurance means a specified form of health
10 benefit coverage ~~including but not limited to cancer, credit health, dental, disability~~
11 ~~income, dread disease, hospitalization, long-term care medical expense insurance.~~
12 as defined in R.S. 22:47(2)(b)(i).

13 §19. Duration of licenses

14 All licenses issued to foreign or domestic insurers of any kind, including
15 fraternal benefit societies, ~~agents, sub-agents, solicitors, brokers, producers,~~ and all
16 other persons, shall remain in effect until cancelled, suspended, revoked, or the
17 renewal thereof refused, provided all requirements of this Title relating to such
18 insurers or persons are met.

19 * * *

20 §21. Agreement on ~~agents'~~ producers' compensation prohibited

21 No insurer shall enter into any combination or agreement with another insurer
22 to prevent its legally authorized ~~agents~~ producers and representatives in this state
23 from accepting a higher compensation than that paid by any party or parties to such
24 agreement.

25 * * *

26 §23. Exclusive use of expirations

27 A.(1) Except as otherwise provided herein, for purposes of soliciting, selling,
28 or negotiating the renewal or sale of insurance coverage, insurance products, or
29 insurance services, an insurance ~~agent or insurance broker~~ producer shall have the

1 exclusive use of expirations, records, or other written or electronic information
2 directly related to an insurance application submitted by or an insurance policy
3 written through an insurance ~~agent or insurance broker~~ producer. No insurance
4 company, managing general agent, surplus lines insurance broker, wholesale broker,
5 third party administrator, or residual markets including but not limited to the
6 Louisiana Automobile Insurance Plan, the Louisiana Joint Reinsurance Plan, or the
7 Louisiana Insurance Underwriting Plan, shall use such expirations, records, or other
8 written or electronic information to solicit, sell, or negotiate the renewal or sale of
9 insurance coverage, insurance products, or insurance services to the insured, either
10 directly or by providing such information to others without the express written
11 consent of the insurance ~~agent or insurance broker~~ producer.

12 (2) Such expirations, records, or other written or electronic information may
13 be used to review an application, issue a policy, or for any other purpose necessary
14 for placing such business through the insurance ~~agent or insurance broker~~ producer.
15 Such expirations, records, or other written or electronic information may also be used
16 for any other purpose which does not involve the soliciting, selling, or negotiating
17 the renewal or sale of insurance coverage, insurance products, or insurance services.

18 B. This Section shall not apply:

19 (1) When the insured requests, individually or through another ~~agent,~~
20 producer, that the insurance company renew the policy or write other insurance
21 business.

22 (2) When the insurance ~~agent~~ producer has, by contract, agreed to act
23 exclusively for one company or group of affiliated insurance companies, in which
24 case the rights of the ~~agent~~ producer shall be determined by the terms of the ~~agent's~~
25 producer's contract with that company or affiliated group.

26 (3) When the ~~insurance agent or insurance broker~~ producer is in default for
27 nonpayment of premiums or other monies due and owing for which the agent is in
28 default under the ~~insurance agent's or insurance broker's~~ producer's contract or other
29 agreement with the insurer, unless there is a legitimate dispute as to monies owed.

1 (4) When the agency contract is terminated and the insurance company is
 2 required by law to continue coverage for the insured; however, in that event, the
 3 insurance company shall continue to pay the ~~insurance agent or insurance broker~~
 4 producer commissions on such policies that the company is required to renew during
 5 the thirty-six month period following the effective date of the termination or three
 6 years, whichever is sooner. The commission shall be at the insurer's prevailing
 7 commission rates in effect on the date of renewal for that class or line of business in
 8 effect on the date of renewal for ~~brokers or agents~~ producers whose contracts are not
 9 terminated.

10 (5) To policies providing group coverage and health insurance.

11 C. The ~~insurance agent or insurance broker~~ producer and insurer may in a
 12 written agreement, separate from the agency contract, mutually agree to terms
 13 different than the provisions set forth in this Section. The terms of any such
 14 agreement shall be negotiated in good faith between the parties.

15 D.

16 * * *

17 (2) In addition, the ~~insurance agent or insurance broker~~ producer shall have
 18 a right to a claim for lost commissions. Such claim shall be resolved in accordance
 19 with the dispute resolution terms in the applicable contract or agreement. In the
 20 absence of any dispute resolution term, the parties shall attempt to resolve their
 21 dispute through mediation. If the claim is not resolved through mediation, the claim
 22 may be resolved through binding arbitration if the parties agree. In the absence of an
 23 agreement to resolve the claim through binding arbitration, the ~~agent or broker~~
 24 producer may maintain ~~an a civil~~ an a civil action ~~of in a court of competent jurisdiction for~~
 25 lost commissions.

26 * * *

27 §24. Life and health sales quotas; prohibitions

28 No existing contract between an insurer and ~~an agent~~ a producer may be
 29 amended to add any provision that may require, as a quota, ~~an agent~~ a producer to

1 sell a specific number of life or health policies or a specific dollar amount of life or
2 health insurance, unless that contract contains a provision requiring the ~~agent~~
3 producer to sell life or health insurance.

4 §31. Division of minority affairs

5 There is hereby created within the Department of Insurance a division of
6 minority affairs which shall have the following functions and duties:

7 (1) To assist in coordinating the activities of the Advisory Committee on
8 Equal Opportunity.

9 (2) To maintain a list of a contact person within each insurance company
10 transacting business in this state who is specifically charged with a duty by the
11 company to respond to inquiries from members of minority groups regarding
12 opportunities for employment, appointment as ~~agents, producers,~~ and contracting for
13 services with insurance companies.

14 (3) In cooperation with insurance companies transacting business in the state,
15 to establish educational and informational services to foster a greater awareness of
16 the opportunities available in the insurance industry and of the skills, training, and
17 education necessary to prepare for opportunities in employment, appointment as
18 ~~agents, producers,~~ and contracting for services with insurance companies.

19 (4) To assist members of minority groups in obtaining employment, ~~agent's~~
20 producer or agency contracts, and contracting for services with insurance companies
21 transacting business in Louisiana.

22 (5) To submit an annual report by April first of each year to the House and
23 Senate insurance committees relative to educational and informational services made
24 available to minorities, the number and types of inquiries, and all available relevant
25 information from applicants and ~~agents, producers.~~

26 (6)(a) To develop a pilot program which seeks to address the needs and
27 concerns of minority and women ~~insurance agents~~ producers in this state. The pilot
28 program, at a minimum, shall provide training for ~~agents~~ producers in all areas of
29 agency management, training and education for agency personnel, and automation

1 support for the ~~agents~~ producers in the pilot program. The commissioner of
2 insurance may adopt rules and regulations necessary for the implementation of the
3 provisions of this Section.

4 (b) This Paragraph shall not apply to ~~insurance agents~~ producers who
5 exclusively sell insurance for one company or a group of companies under common
6 management which already has a training program in place for all ~~agents~~ producers.

7 §32. Advisory Committee on Equal Opportunity

8 * * *

9 B. The committee shall assist the commissioner of insurance and the division
10 of minority affairs in establishing educational and informational services to foster a
11 greater awareness of the opportunities available in the insurance industry and of the
12 skills, training, and education necessary to prepare for opportunities in employment,
13 appointment as ~~agents~~ producers, and contracting for services with insurance
14 companies transacting business in Louisiana. The commissioner of insurance shall
15 promulgate rules and regulations to implement this Subpart.

16 C. The committee shall review all complaints alleging a violation of the
17 provisions of this Subpart. Upon receipt of a complaint, the committee shall notify
18 the insurer against whom the complaint was filed of the nature of the complaint and
19 provide ~~him~~ the insurer with an opportunity to make a written explanation. As a
20 part of the response, the insurer may submit to the committee any affirmative action
21 plan it may have in effect. The committee shall consider any affirmative action plan
22 submitted to it, along with any other pertinent information submitted to it, in
23 determining whether the insurer has engaged in a pattern or practice of employment
24 discrimination prohibited by Part IV of Chapter 3-A of Title 23, R.S. 23:1006- 332
25 et seq.

26 * * *

27 E. Nothing contained in this Section or in R.S. 22:31 shall be construed to
28 expand the coverage of Part IV of Chapter 3-A of Title 23, R.S. 23:1006 332 et seq.
29 for purposes of the sanctions authorized against insurers under R.S. 22:33.

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

1 §33. Sanctions

2 A. Whenever the commissioner of insurance receives notification of an
3 apparent violation from the advisory committee, and determines, after notice and
4 opportunity for a hearing in accordance with the Administrative Procedure Act, that
5 an insurer has engaged in a pattern or practice of employment discrimination
6 prohibited by Part IV of Chapter 3-A of Title 23, R.S. 23:1006, 332, he may issue
7 an order requiring the insurer to cease and desist engaging in such unlawful act or
8 practice. If the insurer does not comply with the cease and desist order, the
9 commissioner may then:

10 * * *

11 §41. Policyholder bill of rights

12 The following items exist in Louisiana statutes and shall serve as standards
13 for a policyholder bill of rights and do not create additional causes of actions or
14 further penalties not otherwise provided under Louisiana statutes:

15 * * *

16 (6) Policyholders shall have the right to receive the appropriate disclosure
17 form as an insert in the front of the policy that complies with R.S. 22:1319 and ~~R.S.~~
18 ~~22:1332~~.

19 * * *

20 (13) Policyholders shall have the right to receive payment of the amount of
21 any property damage claim, or a portion of the claim, due or a written offer to settle
22 any property damage claim within thirty days after receipt of satisfactory proof of
23 loss in accordance with R.S. 22:1892 and ~~R.S. 22:1973~~. If a claim is denied,
24 policyholders shall have the right to receive a written explanation as to the reason for
25 denial, in whole or in part, of any claim made under their policy of insurance.

26 * * *

27 §43. Complaints against insurers; file by company; public information

28 B.

1 * * *

2 (2) The computer program employed by the commissioner shall, at a
3 minimum, be able to sort the information in this database on any of the fields
4 described in ~~the preceding~~ Paragraph (1) of this Subsection and print out a written
5 report thereof.

6 * * *

7 §46. General definitions

8 In this Code, unless the context otherwise requires, the following definitions
9 shall be applicable:

10 (1) "Alien ~~insurer~~ insurer" is one formed under the laws of any country other
11 than the United States.

12 * * *

13 (4) "Commissioner of Insurance" as that office is created and defined by this
14 Code shall have full power and authority to act as insurance commissioner for the
15 state of Louisiana and is hereby declared to be the proper officer to act for this state
16 and to represent this state as a member of the National Association of Insurance
17 Commissioners. "Commissioner" shall mean the commissioner of insurance.

18 (5) "Control", ~~as used in this Code~~ relative to ownership, shall mean
19 ownership representing or the authority to represent over fifty percent of the total one
20 hundred percent ownership.

21 * * *

22 (7) "Domestic ~~insurer~~ insurer" is one formed under the laws of this state.

23 (8) "Foreign ~~insurer~~ insurer" is one formed under the laws of any other state
24 or territory of the United States or the District of Columbia.

25 (9)

26 * * *

27 (b) The establishment and operation of one or more professional or public
28 liability trust funds by a statewide hospital association in this state for the purpose

1 of providing a means by which any type of professional malpractice or public
2 liability claims or judgments arising from such claims against hospitals which are
3 members of the association and claims against members of societies of the
4 association shall be paid or settled shall not be deemed to be insurance and such trust
5 or trusts shall not be deemed to be licensed, admitted or authorized insurers but shall
6 be subject to Subpart E of Part III of Chapter 2, R.S. 22:651 et seq., Part IV of
7 Chapter 7, R.S. 22:1961 et seq., and Chapters 8 and 12 of this Title, ~~22 of the~~
8 ~~Louisiana Revised Statutes of 1950: R.S. 22:1981 et seq. and R.S. 22:2191 et seq.~~
9 An annual audited statement for each such trust shall be filed with the commissioner
10 of insurance. The commissioner of insurance shall also have the authority to
11 examine the books, records and affairs of the trust funds.

12 (c) The establishment and operation of professional and public liability trust
13 funds by a nonprofit beneficiary organization as set forth in Subpart N of Part I of
14 Chapter 2 of this Title, ~~22 of the Louisiana Revised Statutes of 1950~~ R.S. 22:401 et
15 seq., shall not be deemed to be insurance and the trusts shall not be deemed to be a
16 licensed, admitted, or authorized insurer but shall be subject to Subpart E of Part III
17 of Chapter 2, Part IV of Chapter 7, and Chapters 8 and 12 of this Title. ~~22 of the~~
18 ~~Louisiana Revised Statutes of 1950: An annual audited statement shall be filed with~~
19 ~~the commissioner of insurance. The commissioner of insurance shall also have the~~
20 ~~authority to examine the books, records, and affairs of the trust fund.~~

21 (d) The establishment and operation of one or more professional, trade, and
22 occupational or public liability trust funds by professional associations in this state
23 for the purpose of providing a means by which professional malpractice and public
24 liability claims or judgments arising from such claims against members of the
25 associations shall be paid or settled shall not be deemed to be insurance, and the trust
26 shall not be deemed to be a licensed, admitted, or authorized insurer but shall be
27 subject to Subpart E of Part III of Chapter 2, Part IV of Chapter 7, and Chapters 8
28 and 12 of this Title. ~~22 of the Louisiana Revised Statutes of 1950: An annual audited~~
29 ~~statement shall be filed with the commissioner of insurance. The commissioner of~~

1 insurance shall also have the authority to examine the books, records, and affairs of
2 the trust fund.

3 * * *

4 (11) "Life ~~Insurer~~ insurer" ~~as used in this Code~~, shall mean all insurers
5 issuing life insurance contracts, including industrial and service insurers.

6 (12) "Person" means any individual, company, insurer, association,
7 organization, reciprocal or inter-insurance exchange, partnership, business, trust,
8 limited liability company, or corporation.

9 (13) "Premium" ~~as used in this Code~~ means all sums charged, received, or
10 deposited as consideration for the purchase or continuance of insurance for a
11 definitely stated term, and shall include any assessment, membership, policy, survey,
12 inspection, service or similar fee or charge made by an insurer as a part of the
13 consideration for the purchase or continuance of insurance. The term premium, as
14 used in R.S. 22:885(B) and 887(D), shall not include any assessment, membership,
15 policy, survey, inspection, service, or similar fee or charge made by an insurer as part
16 of the consideration for the purchase or continuance of insurance.

17 * * *

18 (15) "Secretary of ~~State~~ state" ~~as used in this Code~~ means the secretary of
19 state of the state of Louisiana where that designation appears, to the extent that the
20 functions to be performed by the secretary of state as designated therein involve the
21 recordation of documents or his appointment as attorney to accept service of process
22 in legal proceedings.

23 * * *

24 (19) "Officer" shall mean a president, vice president, treasurer, actuary,
25 secretary, controller, and any other person who performs for the company functions
26 corresponding to those performed by the foregoing officers.

27 (20) "Producer" shall mean a person required to be licensed under the laws
28 of this state to sell, solicit, or negotiate insurance and includes all persons or business

1 entities otherwise referred to in this Code as "insurance agent", "agent", "insurance
2 broker", "broker", "insurance solicitor", "solicitor", or "surplus lines broker".

3 (21) "Department" shall mean the Department of Insurance.

4 §47. Kinds of insurance

5 Insurance shall be classified as follows:

6 * * *

7 (2)(~~a~~) Health and accident.

8 (a) Insurance of human beings against bodily injury, disablement, or death
9 by accident or accidental means, or the expense thereof, or against disablement, or
10 expense resulting from sickness or old age, or against major expenses incurred by an
11 employee benefit plan due to the illness or injury of a covered employee, or against
12 major expenses incurred by a health care provider at financial risk for provision of
13 health care to persons under an agreement, and every insurance appertaining thereto,
14 including insurance wherein the benefits are covered at a higher level when health
15 care is received from a defined network of health care providers, provided, however,
16 that such insurance meets all applicable requirements of Subpart I of Part I of
17 Chapter 2 of this Title, R.S. 22:241 et seq., for provision of coverage through
18 designated providers of medical services.

19 (b)(~~i~~) Limited benefit. Health and accident insurance policy designed,
20 advertised, and marketed to supplement major medical insurance that includes
21 accident-only, the Civilian Health and Medical Program of the Uniformed Services
22 (CHAMPUS), dental, disability income, fixed indemnity, long-term care, Medicare
23 supplement, specified disease, vision, and any other health and accident insurance,
24 other than basic hospital expense, basic medical-surgical expense, or other major
25 medical insurance.

26 (3) Vehicle.

27 (a) Insurance against loss or damage to any land vehicle or aircraft or any
28 draft or riding animal or to property while contained therein or thereon or being
29 loaded or unloaded therein or therefrom, and against any loss or liability resulting

1 from or incident to ownership, maintenance, or use of any such vehicle or aircraft or
2 animal.

3 (b) Insurance against accidental death or accidental injury to individuals
4 including the named insured while in, entering, alighting from, adjusting, repairing,
5 cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal,
6 if such insurance is issued as part of insurance on the vehicle, aircraft, or draft or
7 riding animal, shall be deemed to be vehicle insurance.

8 * * *

9 (6) Burglary and ~~Forgery~~: forgery. Insurance against loss or damage by
10 burglary, theft, larceny, robbery, forgery, fraud, or otherwise, including the personal
11 property floater.

12 * * *

13 (8) Fidelity and ~~Surety~~: surety. Becoming surety or guarantor for any
14 person, copartnership, or corporation in any position or place of trust or as custodian
15 of money or property, public or private; or becoming a surety or guarantor for the
16 performance of any person, copartnership or corporation of any lawful obligation,
17 undertaking, agreement, or contract of any kind, except contracts or policies of
18 insurance; or guaranteeing against loss or damage resulting from failure of debtors
19 to pay their obligations to the insured; and underwriting blanket bonds; however, no
20 insurer, except the Federal Deposit Insurance Corporation, the Federal Savings and
21 Loan Insurance Corporation, the National Credit Union Administration, or any
22 similar insurance corporation hereinafter created by the Congress of the United
23 States or the legislature of any state; shall insure deposits in banks, savings and loan
24 associations, credit unions, finance operations, or similar institutions. Such
25 obligations shall be known and treated as suretyship obligations and such business
26 shall be known as surety business.

27 * * *

28 (10) Fire and extended coverage.

29 * * *

1 (b) Insurance against loss or damage by earthquake, windstorms, cyclone,
2 tornado, tempests, hail, frost, snow, ice, sleet, flood, rain, drought, or other weather
3 or climatic conditions including excess or deficiency of moisture; or rising of the
4 waters of the ocean or its tributaries;

5 * * *

6 (12) Crop and ~~live stock~~. livestock.

7 (a) Insurance against loss or damage from insects, diseases, or other causes
8 to trees, crops, or other products of the soil;

9 (b) Insurance against loss by death or damage to any domesticated or wild
10 animal from disease, lightning, tornadoes, cyclones, accidents, and every other
11 casual or accidental cause; also against theft.

12 (13) Marine and transportation (inland marine).

13 (a) Insurance against loss or damage to vessels, craft, aircraft, or vehicles of
14 every kind, (excluding vehicles operating under their own power or while in storage
15 not incidental to transportation), as well as all goods, freights, cargoes, merchandise,
16 effects, disbursements, profits, moneys, bullion, precious stones, securities, choses
17 in action, evidences of debt, valuable papers, bottomry and respondentia interests,
18 and all other kinds of property and interests therein, in respect to, appertaining to, or
19 in connection with any or all risks or perils of navigation, transit, or transportation,
20 including war risks, on or under any seas or other waters, on land or in the air, or
21 while being assembled, packed, crated, baled, compressed, or similarly prepared for
22 shipment or while awaiting the same or during any delays, storage, trans-shipment,
23 or reshipment incident thereto, including marine builder's risks and all personal
24 property floater risks;

25 * * *

26 §48. Types of insurers and other risk bearing entities

27 A. The following entities are regulated by ~~the~~ specific provisions in the
28 Louisiana Insurance Code:

29 (1) Domestic stock insurers,

- 1 (2) Domestic mutual insurers.
- 2 (3) Domestic service insurers.
- 3 (4) Industrial insurers.
- 4 (5) Reciprocal insurers.
- 5 (6) Nonprofit funeral service associations.
- 6 (7) Mutual insurance holding companies.
- 7 (8) Health maintenance organizations.
- 8 (9) Fraternal benefit societies.
- 9 (10) Foreign and alien insurers.
- 10 (11) Vehicle mechanical breakdown insurers.
- 11 (12) Property residual value insurers.
- 12 (13) Nonprofit beneficiary organizations and risk indemnification trusts.
- 13 (14) Surplus line insurers.
- 14 (15) Group self insurers.
- 15 (16) Risk retention groups.
- 16 (17) Title insurers.

17 * * *

18 §61. Incorporators

19 Five or more natural persons of full age, or fully relieved by emancipation of
20 all disabilities attaching to minority, who are citizens of the United States and a
21 majority of whom are residents of this state, may form a corporation for the purpose
22 of transacting any class or classes of insurance permitted under this ~~code~~ Code as a
23 stock or mutual company.

24 §62. Articles of incorporation

25 Articles of incorporation shall be executed by authentic act signed by each
26 of the incorporators and shall state in the English language:

27 * * *

28 (7) If a stock company, the number of shares, the amount of each share, and
29 the time when and the manner in which payment on stock subscribed shall be made;

1 * * *

2 (11) Any other provision for the regulation of the business and the conduct
3 of the affairs of the corporation, not prohibited by this ~~code~~ Code or the other laws
4 of this state.

5 §63. Approval of articles

6 Such articles shall be submitted to the commissioner of insurance for his
7 examination and approval either before or after execution, but before recordation.
8 The commissioner shall not approve such articles unless they strictly conform with
9 the provisions of the Louisiana Insurance Code, being this Title. ~~22 of the Louisiana~~
10 ~~Revised Statutes of 1950.~~

11 * * *

12 §65. Application for certificate of authority

13 An application shall be made by the first directors to the commissioner of
14 insurance for a certificate of authority which shall be accompanied by:

15 * * *

16 (11)

17 * * *

18 (c) The commissioner may adopt rules and regulations to implement the
19 ~~provision herein,~~ provisions of this Paragraph pursuant to the Administrative
20 Procedure Act.

21 * * *

22 §67. Amendment to articles of incorporation

23 * * *

24 C. The provisions of Subsections A and B of this Section shall not be
25 applicable when an incorporated insurer changes either its registered agent or
26 address, or both. In any such change, the incorporated insurer shall provide the
27 commissioner of insurance with the board resolution and notice, in the manner
28 provided for by Part III of Chapter 1 of Title 12 of the Louisiana Revised Statutes of
29 1950, R.S. 12:31 et seq.

1 §68. Books and records of domestic insurer; securities

2 * * *

3 C. Every domestic company shall keep its securities within the state of
4 Louisiana except where:

5 (1) On deposit with other states of the United States of America, or political
6 ~~subdivision~~ subdivisions thereof.

7 * * *

8 §69. Business Corporation Law governs when Insurance Code silent

9 The provisions of the Louisiana Business Corporation Law, as provided in
10 R.S. 12:1 through R.S. 12:178, and other provisions of said Title 12 relative to
11 business corporations, shall apply to the regulation of the business and the conduct
12 of the affairs of any domestic insurer which has been incorporated pursuant to the
13 provisions of ~~Subparts A~~ this Subpart and Subpart B of this Part, ~~of Chapter 2 of~~
14 ~~Title 22 of the Louisiana Revised Statutes~~, in those situations in which the provisions
15 of ~~said this~~ Title 22 are silent. If a conflict exists between the provisions of ~~said this~~
16 Title ~~22~~ and said provisions of Title 12, the provisions of the Louisiana Insurance
17 Code shall govern.

18 * * *

19 §71. Conversion requirements

20 ~~After the effective date of this Section, no~~ No domestic life insurer may
21 convert to a type of insurer having greater insuring power without meeting the full
22 capital, surplus, and deposit requirements of the type insurer to which it desires to
23 convert.

24 §72. Stock and mutual conversions

25 * * *

26 C. The conversion of a mutual life insurer or a mutual life insurance holding
27 company shall also comply with Subpart H-1 of this Part, ~~of Chapter 2 of Title 22~~
28 ~~of the Louisiana Revised Statutes of 1950.~~ R.S. 22:231 et seq. "Mutual life insurer"

1 and "mutual life insurance holding company" shall have the meanings set forth in R.S.
2 22:236.

3 §73. Order of dissolution

4 A. If the insurer against whom the petition for liquidation is filed be a
5 corporation and the petition prays for dissolution of such insurer, the court shall have
6 jurisdiction either before or after final liquidation of the property, business, and affairs
7 of such insurer, after citation of an order to show cause as aforesaid and a full hearing,
8 to enter a decree dissolving such insurer. The court may likewise, regardless of
9 whether an order of liquidation is sought or has been obtained, upon proper petition
10 by the commissioner of insurance, order dissolution of an insurer when it has failed
11 to qualify for a certificate of authority authorizing it to commence the transaction of
12 its business, or when an insurer has no assets and no means for payment of liabilities.
13 In any such decree of dissolution, the court, may, upon satisfactory demonstration that
14 all of the assets of the insurer shall be applied to payment of liabilities of the insurer
15 in the manner and priority as provided by law, and after such notice and hearing as
16 the court shall require, issue an order discharging the insurer of all unsatisfied
17 liabilities.

18 B. Notwithstanding any provision of Subsection A of this Section, upon
19 application by the commissioner of insurance and following notice as prescribed by
20 the court and a hearing, the court may authorize the commissioner of insurance to sell
21 the corporation as an entity, together with any of its licenses to do business, despite
22 the entry of an order of liquidation. The sale may be made on terms and conditions
23 the court deems appropriate including but not limited to the distribution of the
24 proceeds of the sale of the corporate entity and licenses for the benefit of
25 policyholders and creditors in the manner set forth in R.S. 22:2025. The legal
26 existence of a legal entity that is placed under an order of rehabilitation, liquidation,
27 or conservation shall be terminated only if the court orders its dissolution as a legal
28 entity, as provided ~~herein.~~ in this Section.

29 §74. Insurers prohibited from engaging in other businesses

1 No domestic insurer shall deal or trade in buying, or selling goods, wares, or
 2 merchandise except articles insured by it on which losses are claimed and except in
 3 replacing, rebuilding, or repairing insured property as provided in its policies. A
 4 domestic insurer shall also not discount commercial or other than first mortgage paper
 5 nor engage in any banking business whatsoever.

6 * * *

7 §81. Capital requirements; applicants prior to September 1, 1989

8 A. Domestic stock insurers who apply for a certificate of authority prior to
 9 September 1, 1989, may transact the following kinds of insurance in this state upon
 10 qualifying therefor and by having paid-in capital and minimum surplus represented
 11 by assets as follows:

	Paid-in	Minimum
<u>Insurance</u>	<u>Capital</u>	<u>Surplus</u>
14 (1) Life	\$ 100,000	\$200,000
15 (2) Health and accident	100,000	200,000
16 (1) and (2) above	100,000	200,000
17 (3) Vehicle physical damage	100,000	150,000
18 (4) Title		
19 (a) Any company licensed to transact title		
20 insurance prior to September 1, 1985	50,000	25,000
21 (b) Any company licensed to transact title		
22 insurance on or after September 1, 1985	100,000	200,000
23 (5) Industrial fire	200,000	100,000
24 (6) Any company organized and authorized to		
25 transact worker's compensation only as of		
26 July 27, 1966	100,000	50,000
27 (7) Any company organized and authorized to		
28 transact crop and livestock insurance only		
29 as of July 27, 1966	100,000	150,000

1	(8) Vehicle	650,000	350,000
2	(9) Liability	650,000	350,000
3	(10) Worker's compensation	650,000	350,000
4	(11) Burglary and forgery	650,000	350,000
5	(12) Glass	650,000	350,000
6	(13) Fidelity and surety	650,000	350,000
7	(14) Fire and extended coverage	650,000	350,000
8	(15) Steam boiler and sprinkler leakage	650,000	350,000
9	(16) Crop and livestock	650,000	350,000
10	(17) Marine and transportation	650,000	350,000
11	(18) Miscellaneous	650,000	350,000
12	(19) All insurances, except life and	650,000	350,000
13	title or combined capital and surplus	1,000,000	

14 B. For the ~~purpose~~ purposes of this Section, "vehicle physical damage
 15 insurance" shall be defined as insurance against loss or damage to any land vehicle
 16 or property while contained therein or thereon or being loaded or unloaded therein or
 17 therefrom.

18 B. C. Authority shall be granted stock insurers upon compliance with all
 19 applicable requirements to transact combinations of kinds of insurance except as
 20 follows:

21 (1) An insurer authorized to transact life insurance shall not be authorized to
 22 transact any additional kind of insurance other than health and accident insurance.

23 (2) An insurer authorized to transact title insurance shall not be authorized to
 24 transact any additional kind of insurance.

25 ~~C.~~ D. Domestic stock insurers who apply for a certificate of authority on or
 26 after September 1, 1989, shall meet the paid-in capital, minimum surplus, operating
 27 surplus, and other requirements of R.S. 22:82.

28 §82. Capital requirements; applicants on and after September 1, 1989

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* * *

B. For the ~~purpose~~ purposes of this Section, "vehicle physical damage insurance" shall be defined as insurance against loss or damage to any land vehicle or property while contained therein or thereon or being loaded or unloaded therein or therefrom.

C. Authority shall be granted stock insurers upon compliance with all applicable requirements to transact combinations of kinds of insurance except as follows:

(1) An insurer authorized to transact life insurance shall not be authorized to transact any additional kind of insurance other than:

- (a) Health and accident insurance;
- (b) Annuity; or

* * *

D. For the ~~purpose~~ purposes of this Section, assets representing at least fifty percent of the operating surplus must be maintained in cash or in cash equivalents as prescribed by the commissioner.

* * *

§86. Dividends on stock

No domestic stock insurer shall declare and pay any dividends to its stockholders unless its capital is fully paid in cash and is unimpaired and it has a surplus beyond its capital stock and the initial minimum surplus required and all other liabilities equal to fifteen ~~per cent~~ percent of its capital stock, provided that this restriction shall not apply to an insurer when its paid-in capital and surplus exceed the minimum required by this Code by one hundred percent or more.

* * *

§88. Sales of stock

A.(1) All sales of stock as defined in this Section shall be made in accordance with the ~~following~~ regulations: contained in this Section.

1 ~~A.~~ (2) When used in this Section, the following terms shall have the following
2 respective meanings:

3 ~~(1)~~(a)(i) "Security" as used in this Section shall include any insurance stock,
4 note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of
5 interest, or participation in any profit-sharing agreement, collateral-trust certificate,
6 preorganization certificate, or certificate of deposit for security, any certificate of
7 deposit, or group or index of securities, or, in general, any interest or instrument
8 commonly known as a "security", or any certificate of interest or participation in,
9 temporary or interim certificate for, receipt for, guarantee participation in, temporary
10 or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to
11 or purchase, any of the foregoing issued by an insurance company, an investment, or
12 holding company with a stated purpose, either by charter or prospectus, of forming
13 an insurance company.

14 ~~(b)~~ (ii) For the ~~purpose~~ purposes of this Section, security shall not mean any
15 insurance or endowment policy or annuity contract under which any insurance
16 company promises to pay a fixed number of dollars either in a lump sum or
17 periodically for life or some other specified period nor any variable life or annuity
18 contract as provided for in and regulated by this Title and issued by a life insurance
19 company licensed to do business in the state of Louisiana.

20 ~~(2)~~ (b) "Person" shall include a natural person, a corporation created under the
21 laws of this state, or of any other state, country, sovereignty, or political subdivision
22 thereof, a partnership, an association, a joint stock company, and any unincorporated
23 association or organization.

24 ~~(3)~~ (c) "Sale" or "sell" shall include every disposition, or attempt to dispose
25 of a security as defined in this ~~section~~ Section or interest in such a security for value.
26 Any security as defined in this Section given or delivered with, or as a bonus on
27 account of, any purchase of such securities or any other thing, shall be conclusively
28 presumed to constitute a part of the subject of such purchase and to have been sold
29 for value. "Sale" or "sell" shall also include an exchange, an attempt to sell, an option

1 of sale, a solicitation of a sale, a subscription of an offer to sell, directly or by an
2 agent, or a circular, letter, advertisement, or otherwise, except an isolated transaction
3 in which any security as defined in this ~~section~~ Section is sold, offered for sale or
4 delivery by the owner not being made in the course of repeated and successive
5 transactions of a like character by such owner, provided the owner is not the
6 underwriter of such security.

7 ~~(4)~~ (d) "Dealer" shall include every person, or investment counsel or
8 investment counsellor, as those terms are generally used, other than a salesman, as
9 hereinafter defined, who in this state engages either for all or part of his time, directly
10 or through an agent in the business of selling any securities as defined in this Section
11 issued by another person or purchasing or otherwise acquiring such securities from
12 another for the purpose of re-selling them or of offering them for sale to the public,
13 or offering, buying, selling, or otherwise dealing or trading in such securities as
14 principal or agent for a commodity or commission or at a profit, or who deals in
15 futures or differences in market quotations of prices or values of any such securities;
16 ~~provided that~~ however, the word "dealer" shall not include a person having no place
17 of business in this state who sells or offers to sell securities exclusively to brokers or
18 dealers actually engaged in buying and selling such securities as a business.

19 ~~(5)~~ (e) "Issuer" shall mean and include every person who proposes to issue,
20 has issued or who shall hereafter issue any security as defined in this Section. Any
21 person who acts as a promoter for and on behalf of a corporation, unincorporated
22 association, or partnership of any kind, formed or to be formed, shall be deemed to
23 be an issuer.

24 ~~(6)~~ (f) "Salesman" shall include every natural person, including ~~insurance~~
25 ~~agents, producers,~~ other than a dealer, employed or appointed or authorized by a
26 dealer or issuer to sell securities as defined in this section in any manner in this state.
27 The partners of a partnership and the executive officers of a corporation or other
28 corporate entity or association registered as a dealer shall not be salesmen within the
29 meaning of this definition.

1 ~~(7)~~ (g) "Broker" shall mean dealer as ~~herein~~ defined: in this Subsection.

2 ~~(8)~~ (h) "Agent" shall mean salesman as ~~herein~~ defined: in this Subsection.

3 ~~(9)~~ (i) "Commissioner" shall mean the ~~Commissioner~~ commissioner of
4 ~~Insurance~~ insurance of the ~~State~~ state of Louisiana.

5 B. Exempt securities. Except as hereinafter otherwise expressly provided, the
6 provisions of this Section shall not apply to any of the following classes of securities:

7 (1) Securities appearing in any list of securities dealt in on the New York or
8 American Stock Exchange, and which securities have been so listed pursuant to
9 official authorization by such exchange, and also all securities senior to any securities
10 so listed, or represented by subscription rights which have been so listed or evidences
11 of indebtedness guaranteed by companies, any stock of which is so listed, such
12 securities to be exempt only so long as such listing shall remain in effect. The
13 commissioner shall have the power to deny this exemption with reference to any
14 particular security listed on any such exchanges, by order published in such manner
15 as the commissioner shall find proper.

16 (2) Securities appearing in any list of securities dealt in on any other
17 recognized and responsible stock exchange which has been previously approved by
18 the commissioner, and which securities have been so listed pursuant to official
19 authorization by such exchange, and also all securities senior to any securities so
20 listed, or represented by subscription rights which have been so listed, or evidences
21 of indebtedness guaranteed by companies any stock of which is so listed, such
22 securities to be exempt only so long as such listing shall remain in effect. The
23 commissioner shall have power at any time to withdraw approval theretofore granted
24 by him to any exchange, and upon such withdrawal no security listed on such
25 exchange shall be entitled to the benefit of such exemption, unless such security is
26 also listed upon an exchange mentioned in ~~paragraph~~ Paragraph (1) of this
27 Subsection, and has not been denied this exemption by the commissioner as provided
28 in said ~~paragraph~~ Paragraph (1). ~~of this Subsection.~~

1 (3) Any security, other than common stock, providing for a fixed return which
2 has been outstanding and in the hands of the public for a period of not less than five
3 years, upon which no default in payment of principal or failure to pay the return fixed,
4 has occurred for a continuous immediately preceding period of five years.

5 C.(1) Except as hereinafter expressly provided, the provisions of this ~~section~~
6 Section shall not apply to the sale of any security in any of the following transactions:

7 ~~(1)~~ (a) At any judicial, executor's, administrator's, tutor's, curator's, or
8 liquidator's sale, or at any sale by a receiver, syndic, or trustee in insolvency or
9 bankruptcy.

10 ~~(2)~~ (b) By or for the account of a pledge holder or mortgagee selling or
11 offering for sale or delivery in the ordinary course of business, and not for the purpose
12 of avoiding the provisions of this Section, to liquidate a bona fide debt, a security
13 pledged in good faith as security for such debt.

14 ~~(3)~~ (c) An isolated transaction in which any security is sold, offered for sale,
15 subscription, or delivery by the owner thereof, or by his representative for the owner's
16 account, such sale or offer for sale, subscription, or delivery not being made in the
17 course of repeated and successive transactions of a like character by such owner, or
18 on his account by such representative, and such owner or representative not being the
19 underwriter of such security.

20 ~~(4)~~ (d) The distribution by a corporation, actively engaged in the business
21 authorized by its charter, of securities to its stockholders or other security holders as
22 a stock dividend or other distribution out of earnings or surplus; or the issuance of
23 securities to the security holders or other creditors of a corporation in the process of
24 a bona fide reorganization or liquidation of such corporation made in good faith and
25 not for the purpose of avoiding the provisions of this Section, either in exchange for
26 the securities of such security holders or claims of such creditors or partly for cash
27 and partly in exchange for the securities or claims of such security holders or
28 creditors; or the issuance of additional capital stock of a corporation sold or
29 distributed by it among its own stockholders exclusively, where no commission or

1 other remuneration is paid or given directly or indirectly in connection with the sale
2 or distribution of such increased capital stock.

3 ~~(5)~~ (e) The transfer or exchange by one corporation to another corporation of
4 their own securities in connection with a consolidation or merger of such
5 corporations, or in the exchange of outstanding shares for a greater or smaller number
6 of shares of the same corporation.

7 ~~(6)~~ (f) The sale, transfer, or delivery of any securities to any bank, savings
8 institution, trust company, insurance company, or to any corporation or to any broker
9 or dealer; provided, that such broker or dealer is actually engaged in buying and
10 selling securities as a business.

11 ~~(7)~~ (g) The sale by a registered dealer, acting either as principal or agent, of
12 securities theretofore sold and distributed to the public, provided that:

13 ~~(a)~~ (i) Such securities are sold at prices reasonably related to the current
14 market price thereof at the time of sale, and if such registered dealer is acting as
15 agent, the commission collected by such registered dealer on account of the sale
16 thereof is not in excess of usual and customary commissions collected with respect
17 to securities and transactions having comparable characteristics; and

18 ~~(b)~~ (ii) Such securities do not constitute an unsold allotment to or subscription
19 by such dealer as a participant in the distribution of such securities by the issuer or by
20 or through an underwriter; and

21 ~~(c)~~ (iii) Either Moody's, Standard and Poor's, or Fitch securities manuals, or
22 any other recognized securities manuals approved by the commissioner of insurance,
23 contain the names of the issuer's officers and directors, a balance sheet of the issuer
24 as of a date not more than ~~18~~ eighteen months prior to the date of such sale, and a
25 profit and loss statement for either the fiscal year preceding that date or the most
26 recent year of operations.

27 (2) The commissioner may revoke the exemption afforded by this ~~subsection~~
28 Subsection with respect to any securities by issuing an order to that effect if he finds

1 that the further sale of such securities in this state would work or tend to work a fraud
2 on purchasers thereof.

3 D.(1) No insurance securities or securities in an investment or holding
4 company with a stated purpose, either by charter or prospectus, of forming an
5 insurance company shall be sold within this state unless such securities have been
6 registered as hereinafter defined. Registration of stocks as defined in this Section,
7 shall be deemed to include the registration of rights to subscribe to such stock if the
8 statement under Subsection E of this Section required for registration of such stock
9 includes any provision that such rights are to be issued. A record of the registration
10 of insurance securities or securities in an investment or holding company as
11 ~~hereinabove~~ defined in Subsection A of this Section shall be kept in a register of
12 securities to be kept in the office of the commissioner, in which register shall also be
13 recorded any orders entered by the commissioner with respect to such securities.
14 Such registration, and all information with respect to the securities registered in
15 accordance with this Section, shall be open to public inspection.

16 (2) The commissioner of insurance shall have the right to adopt such rules and
17 regulations as he may deem necessary to carry out the purposes of this Section.

18 (3) The commissioner of insurance may take depositions, compel production
19 of books and records, subpoena witnesses or documentary evidence, administer oaths,
20 and examine under oath any individual relative to the sale of securities as defined in
21 ~~this section:~~ Section. Any person who testifies falsely or makes any false affidavit
22 during the course of such an examination under this Section shall be guilty of perjury.

23 E.(1) Securities as defined in this ~~section~~ Section shall be registered by the
24 filing of the issuer, or of any dealer registered with the office of the commissioner of
25 insurance, in the office of the commissioner with respect to such securities of the
26 following:

27 ~~(1)~~ (a) Name of issuer, location, and, if incorporated, place of incorporation.

28 ~~(2)~~ (b) A brief description of the security, including amount of the issue.

29 ~~(3)~~ (c) Amount of securities to be offered in the state.

1 ~~(4)~~ (d) The par value, the price at which the securities are to be offered for sale
2 to the public, and a statement as to how the proceeds are to be used, including
3 commissions to be paid, which commissions, however, shall in no event exceed
4 fifteen percent.

5 ~~(5)~~ (e) A copy of the circular or prospectus to be used by the issuer or dealer
6 for the public offering.

7 ~~(6)~~ (f) Any other information or documents required by the commissioner of
8 insurance.

9 (2) Every statement required to be filed with the commissioner under any of
10 the provisions of this ~~section~~ Section shall be transmitted by United States mail, and
11 the commissioner shall never receive nor shall he be authorized to receive or accept
12 for filing any statement or documents transmitted to him by any mode other than by
13 United States mail.

14 (3) The filing of such statement and documents in the office of the
15 commissioner, and the payment of the fee ~~hereinafter~~ provided; for in this
16 Subsection, shall, after being authorized by the commissioner, constitute the
17 registration of such securities. Upon such registration, such securities may be sold in
18 this state by any registered dealer, subject, however, to the further order of the
19 commissioner as ~~hereinafter~~ provided: in this Subsection. Every registration under
20 this ~~section~~ Section for an insurance company on primary issues of stock shall expire
21 in accordance with the statutory provisions of R.S. 22:85. Every registration under
22 this ~~section~~ Section for an investment or holding company, or on issued and
23 outstanding shares of stock of an insurance company, shall expire on December
24 thirty-first of each year, but new registrations for the succeeding period or succeeding
25 year, as the case may be, shall be issued upon written application and upon payment
26 of the fee as ~~hereinafter~~ provided: in this Subsection.

27 (4) If, at any time in the opinion of the commissioner, the information
28 contained in the statement, circular, or prospectus filed is, or has become, misleading,
29 incorrect, inadequate, or incomplete, or the sale or offering for sale of the security as

1 defined in this ~~section~~ Section may work or tend to work a fraud, the commissioner
2 may require from the person filing such statement such further information as may in
3 his judgment be necessary to establish the classification of such security as claimed
4 in said statement, or to enable the commissioner to ascertain whether other steps
5 should be taken and the registration rejected or revoked on any ground ~~hereinafter~~
6 specified; in Subsection F of this Section and the commissioner may refuse to register
7 or suspend the right to sell such security pending further investigation by entering an
8 order specifying the grounds for such action, and by notifying by mail, or personally,
9 or by telephone confirmed in writing, or by telegraph, the person filing such a
10 statement and documents, and every registered dealer who shall have notified the
11 commissioner of an intention to sell such security. The refusal to furnish information
12 required by the commissioner within a reasonable time to be fixed by the
13 commissioner may be a proper ground for the entry of such order of suspension. The
14 commissioner shall notify every registered dealer of such order and upon the entry of
15 any such order of suspension, no further sales of such security shall be made until the
16 further order of the commissioner.

17 (5) In the event of the entry of such order of rejection or suspension, the
18 commissioner shall, upon request, give a prompt hearing in accordance with Chapter
19 12 of this Code, R.S. 22:2191 et seq., to the parties interested. If no hearing is
20 requested within a period of twenty days from the entry of such order, or, if upon such
21 hearing the commissioner shall determine that any such security is not entitled to
22 registration under this ~~section~~, Section, or that the sale thereof should be revoked on
23 any ground ~~hereinafter~~ specified; in Subsection F of this Section, he shall enter a final
24 order prohibiting sales of such security, with his findings with respect thereto. Until
25 the entry of such final order, the rejection or suspension of the right to sell, though
26 binding upon the persons notified thereof, shall be deemed confidential, and shall not
27 be published, unless it shall appear that the order of suspension has been violated after
28 notice. Appeals from such final order may be taken as ~~hereinafter~~ provided: in this
29 Section. If, however, upon such hearing, the commissioner shall find that the security

1 being offered for sale will neither be fraudulent nor result in fraud, he shall forthwith
2 enter an order revoking such order of suspension and such security shall be restored
3 to its status as a security registered under this ~~section~~ Section as of the date of such
4 order of suspension.

5 (6) At the time of filing the statement and documents ~~hereinabove~~ enumerated;
6 in this Subsection and upon re-registration, the applicant shall pay to the
7 commissioner a fee of one-twentieth of one ~~per centum~~ percent of the aggregate price
8 of such securities to be sold in this state, for which the applicant is seeking
9 registration, but in no case shall such fee be less than twenty-five dollars or more than
10 two hundred dollars. The commissioner of insurance is authorized to withhold the
11 funds collected under this ~~section~~ Section to defray the expenses actually and
12 necessarily incurred by him for salaries and expenses in carrying out the purposes of
13 this ~~section~~. Section.

14 F. Revocation of registration of securities as defined in this Section.

15 (1) The commissioner may revoke the registration of any security as defined
16 in this Section by entering an order to that effect, with his findings in respect thereto,
17 if upon the examination into the affairs of the issuer, it shall appear that the company:

18 ~~(1)~~ (a) Is insolvent, ~~or~~.

19 ~~(2)~~ (b) Has violated any of the provisions of this Section, or any order of the
20 commissioner of which such issuer has notice, or any of the rules and regulations
21 adopted by the commissioner of insurance under this Section, ~~or~~.

22 ~~(3)~~ (c) Has been or is engaged or is about to engage in a fraudulent transaction;
23 ~~or~~.

24 ~~(4)~~ (d) Is in any other way dishonest or has made any fraudulent
25 representations in any prospectus or in any circular or other literature that has been
26 distributed concerning the issuer or its securities, ~~or~~.

27 ~~(5)~~ (e) Is of bad business repute, ~~or~~.

28 ~~(6)~~ (f) Does not conduct its business in accordance with law, ~~or~~.

1 ~~(7)~~ (g) That the affairs of the insurance company or other company issuing
2 such securities are in an unsound condition, ~~or,~~

3 ~~(8)~~ (h) That the enterprise or business or the security offered is not based upon
4 sound business principles.

5 (2) In making such examination, the commissioner shall have access to and
6 may compel the production of all the books and papers of such insurance company
7 or other company issuing such securities, subpoena witnesses, and administer oaths
8 to and examine the officers of such issuer, or any expert, whose statement was filed
9 by any issuer in connection with an application, or any other person connected
10 therewith as to its business and affairs, and may also require a balance sheet
11 exhibiting the assets and liabilities of any such issuer or its income statement, or both,
12 to be certified to by a public accountant either of this state, or of any other state
13 approved by the commissioner. The commissioner may also require that any
14 statement made on the authority of any expert be verified by another expert to be
15 selected by the commissioner.

16 (3) Whenever the commissioner may deem it necessary, he may also require
17 such balance sheets or income statements or statements of experts to be made more
18 specific in such particulars as the commissioner of insurance shall point out, or to be
19 brought down to the latest practicable date.

20 (4) If any issuer of securities as defined in this Section shall refuse to permit
21 an examination to be made by the commissioner, or if it should refuse or fail to cause,
22 at its own expense, any statement or valuation required to be made by an expert to be
23 verified by another expert selected by the commissioner, it shall be proper ground for
24 revocation of registration.

25 (5) If the commissioner shall deem it necessary, he may enter an order
26 suspending the right to sell such securities pending any investigation provided that the
27 order shall state the grounds for taking such action.

1 (6) Notice of the entry of such order shall be given by mail, or personally, or
2 by telephone confirmed in writing, or by telegraph, to the issuer of such securities,
3 which company shall in turn notify every registered dealer.

4 (7) Before an order is made final, the insurance company or other issuer
5 applying for registration shall on application be entitled to a hearing, and after such
6 hearing the commissioner shall notify it of the final ruling on the matter.

7 G. Consent to service. Upon any application for registration where the issuer
8 is not domiciled in this state, there shall be filed with such application the irrevocable
9 written consent of the issuer that in suits, proceedings, and actions growing out of the
10 violation of any provision of this Section, the service on the commissioner of any
11 notice, process, or pleadings therein, authorized by law, shall be as valid and binding
12 as if due service had been made on the issuer. Any such action shall be brought either
13 in the parish of the plaintiff's domicile or in the parish of East Baton Rouge. Said
14 written consent shall be authenticated by the seal of said issuer, if it has a seal, and by
15 the acknowledged signature of a member of the co-partnership or company, or by the
16 acknowledged signature of any officer of the incorporated or unincorporated
17 association, if it be an incorporated or unincorporated association, duly authorized by
18 resolution of the board of directors, trustees, or managers of the corporation or
19 association, and shall in such case be accompanied by a duly certified copy of the
20 resolution of the board of directors, trustees, or managers of the corporation or
21 association authorizing the officers to execute same. In case any process or pleadings
22 mentioned in this Section are served upon the commissioner, it shall be by duplicate
23 copies, one of which shall be filed in the office of the commissioner and another
24 immediately forwarded by the commissioner by registered mail to the principal office
25 of the issuer against which said process or pleadings are directed.

26 H. Registration of dealers and salesmen.

27 (1) No dealer or salesman shall engage in business in this state as such dealer
28 or salesman or sell any securities as defined in this Section unless he has been

1 registered as a dealer or salesman in the office of the commissioner pursuant to the
2 provisions of this Section.

3 (2) An application for registration, in writing, shall be sent by United States
4 mail to the commissioner to be filed in the office of the commissioner in such form
5 as the commissioner may prescribe, duly verified by oath, which shall state the
6 principal place of business or office of the applicant, wherever situated, and the
7 location of the principal office and all branch offices in this state, if any, the name or
8 style of doing business, the names, residence₂, and business addresses of all persons
9 interested in the business as principals, co-partners, officers₂ and directors, specifying
10 as to each his capacity and title, the general plan and character of business₂ and the
11 length of time the dealer has been engaged in business. The commissioner may also
12 require such additional information as to the applicant's previous history, record₂ and
13 association as he may deem necessary to establish the good repute in business of the
14 applicant.

15 (3) There shall be filed by each dealer with such application for registration,
16 where such dealer is not domiciled in this state, an irrevocable written consent of the
17 dealer that in all suits, proceedings₂ or actions growing out of the violation of any
18 provision of this Section, the service on the commissioner of any notice, process₂ or
19 pleading therein authorized by the laws of this state, shall be as valid and binding as
20 if due service had been made on the dealer. The place for bringing any such action
21 and the manner in which the written consent shall be authenticated are the same as
22 outlined in Subsection G of this Section.

23 (4) If the commissioner shall find that the applicant is of good repute and has
24 complied with the provisions of this Section, including the payment of the fee
25 ~~hereinafter~~ provided; for in this Subsection, he shall register such applicant as a
26 dealer.

27 (5) Upon the written application of a registered dealer and general satisfactory
28 showing as to good character and the payment of the proper fee, the commissioner
29 shall register as a salesman of such dealer such natural person as the dealer may

1 request. Such registration shall cease upon the termination of the employment of such
2 salesman by such dealer.

3 (6) The names and addresses of all persons approved for registration as dealers
4 or salesmen and all order with respect thereto shall be recorded in a register of dealers
5 and salesmen kept in the office of the commissioner, which shall be open to public
6 inspection. Every registration under this Section shall expire on December thirty-first
7 of each year, but new registrations for the succeeding year shall be issued upon
8 written application and upon payment of the fee as ~~hereinafter~~ provided; ~~for in this~~
9 Subsection without filing of further statements or furnishing any further information,
10 unless specifically required by the commissioner. Applications for renewals must be
11 made not less than thirty days nor more than sixty days before the first day of the
12 ensuing year, otherwise they shall be treated as original applications.

13 (7) The fee for such registration and for each annual renewal shall be fifty
14 dollars in the case of dealers and ten dollars in the case of salesmen. The
15 commissioner of insurance is authorized to withhold the funds collected under this
16 Section to defray the expenses actually and necessarily incurred by him for salaries
17 and expenses in carrying out the purposes of this Section.

18 (8) Changes in registration occasioned by changes in the personnel of a
19 partnership or in the principals, co-partners, officers, or directors of any dealer may
20 be made from time to time by written application setting forth the facts with respect
21 to such change.

22 (9) Any issuer of a security as defined in this Section required to be registered
23 under the provisions of this Section, selling such securities except in exempt
24 transactions as herein defined shall be deemed a dealer within the meaning of this
25 Section and required to comply with all the provisions hereof.

26 I. Revocation of dealers' and salesmen's registration.

27 (1) Registration under Subsection H of this Section may be refused or any
28 registration granted may be revoked by the commissioner if after a reasonable notice

1 and a hearing the commissioner determines that such applicant or registrant so
2 registered:

3 ~~(1)~~ (a) Has violated any provision of this Section or any regulation made
4 ~~hereunder, or pursuant to this Section.~~

5 ~~(2)~~ (b) Has made a material false statement in the application for registration;
6 ~~or.~~

7 ~~(3)~~ (c) Has been guilty of a fraudulent act in connection with any sale of
8 securities as defined in this Section, or has been or is engaged or is about to engage
9 in making fictitious or pretended sales or purchases of any such securities or has been
10 or is engaged or is about to engage in any practice or sale of such securities which is
11 fraudulent or in violation of the law, ~~or.~~

12 ~~(4)~~ (d) Has demonstrated his unworthiness to transact the business of dealer
13 or salesman.

14 (2) In cases of charges against a salesman notice thereof shall also be given
15 the dealer employing such salesman.

16 (3) Pending the hearing, the commissioner shall have the power to order the
17 suspension of such dealer's or salesman's registration, provided such order shall state
18 the cause for such suspension, and provided further, that such hearing shall be held
19 within ten days from the date of such suspension. Failure of the commissioner to hold
20 such a hearing within such time shall constitute complete restoration of the
21 registration of the dealer or salesman involved.

22 (4) Until the entry of a final order, the suspension of such dealer's registration,
23 though binding upon the persons notified thereof, shall be deemed confidential, and
24 shall not be published unless it shall appear that the order of suspension has been
25 violated after notice.

26 (5) In the event the commissioner determines to refuse or to revoke a
27 registration as ~~hereinabove~~ provided; in this Subsection, he shall enter a final order
28 herein with his findings on the register of dealers and salesmen; and suspension or

1 revocation of the registration of a dealer shall also suspend or revoke the registration
2 of all his salesmen.

3 (6) It shall be sufficient cause for refusal or cancellation of registration in case
4 of a partnership or corporation or any unincorporated association, if any member of
5 a partnership or any officer or director of the corporation or association has been
6 guilty of any act or omission which would be cause for refusing or revoking the
7 registration of an individual dealer or salesman.

8 J. Escrow agreement. If the statement containing information as to insurance
9 securities which are required to be registered shall disclose that any such insurance
10 securities shall have been or shall be intended to be issued for any organization or
11 promotion fees or expenses, the amount and nature thereof shall be fully set forth and
12 the commissioner may require that such insurance securities so issued in payment for
13 organization or promotion fees or expenses shall be delivered in escrow to the
14 commissioner or other depository satisfactory to the commissioner under an escrow
15 agreement that the owners of such insurance securities shall not be entitled to
16 withdraw such insurance securities from escrow until all other stockholders who have
17 paid for their stock in cash shall have been paid a dividend or dividends aggregating
18 not less than six ~~per cent,~~ percent, shown to the satisfaction of said commissioner to
19 have actually been earned on the investment in any stock so held, and in case of
20 dissolution or insolvency during the time such insurance securities are held in escrow,
21 the owners of such insurance securities shall not participate in the assets until after the
22 owners of all other securities shall have been paid in full.

23 K. Injunctions.

24 (1) Whenever it shall appear to the commissioner, either upon complaint or
25 otherwise, that in the issuance, sale, promotion, negotiation, advertisement, or
26 distribution of any securities as defined in this Section within this state, any person
27 has committed any of the following acts, the commissioner may investigate and, upon
28 evidence satisfactory to him, may, in addition to any other remedies, bring action in
29 the name and on behalf of the state of Louisiana against such person and any other

1 person or persons concerned in or in any way participating in or about to participate
2 in such fraudulent practices or acting in violation of this Section, to enjoin such
3 person and such other person or persons from continuing such fraudulent practices or
4 engaging therein or doing any act or acts in furtherance thereof, or in violation of this
5 Section:

6 (1) ~~(a) Shall have~~ Has employed or employs, or is about to employ any
7 device, scheme, or artifice to defraud or for obtaining money or property by means
8 of any false pretense, representation, or promise, ~~or.~~

9 (2) ~~(b) Shall have~~ Has made, makes, or attempts to make in this state fictitious
10 or pretended purchases or sales of securities as defined in this Section, ~~or.~~

11 (3) ~~(c) Shall have~~ Has engaged in or engages in or is about to engage in any
12 practice or transaction or course of business relating to the purchase or sale of
13 securities as defined in this Section:

14 (a) ~~(i)~~ Which is in violation of law, or in violation of any of the rules and
15 regulations adopted by the commissioner of insurance under this Section, ~~or.~~

16 (b) ~~(ii)~~ Which is fraudulent, ~~or.~~

17 (c) ~~(iii)~~ Which is operated, or which would operate, as a fraud upon the
18 purchaser, any one or all of which devices, schemes, artifices, fictitious or pretended
19 purchases or sales of securities as defined in this Section, practices, transactions, and
20 courses of business are hereby declared to be and are hereinafter referred to in this
21 Section as fraudulent practices, ~~or.~~

22 (4) ~~(d)~~ Is acting as a dealer or salesman within this state without being duly
23 registered as such dealer or salesman as provided in this Section, ~~the commissioner~~
24 ~~may investigate, and whenever he shall believe from evidence satisfactory to him:~~

25 (a) ~~That any such person has engaged in, is engaged in or is about to engage~~
26 ~~in any of the practices or transactions hereinabove referred to as and declared to be~~
27 ~~fraudulent practices, or~~

28 (b) ~~Is selling or offering for sale any securities as defined herein in violation~~
29 ~~of this Section, or is acting as a dealer or salesman without being duly registered as~~

1 ~~provided in this Section, the commissioner may, in addition to any other remedies,~~
2 ~~bring action in the name and on behalf of the state of Louisiana against such person~~
3 ~~and any other person or persons concerned in or in any way participating in or about~~
4 ~~to participate in such fraudulent practices or acting in violation of this Section, to~~
5 ~~enjoin such person and such other person or persons from continuing such fraudulent~~
6 ~~practices or engaging therein or doing any act or acts in furtherance thereof, or in~~
7 ~~violation of this Section.~~

8 (2) In any such court proceedings, the commissioner may apply for and on due
9 showing be entitled to have issued the court's subpoena requiring forthwith; the
10 appearance of any defendant and its employees, salesmen, or agents; ~~and~~ the
11 production of documents, books, and records as may appear necessary for the hearing
12 of such petition; ~~to testify and give evidence~~ and testimony and evidence concerning
13 the acts or conduct or things complained of in such application for injunction. In such
14 action, the district court of the domicile of any of the persons, firms, or corporations
15 involved, or the district court of the parish of East Baton Rouge shall have jurisdiction
16 of the parties and the subject matter, and a judgment may be entered awarding such
17 injunctive relief as may be proper.

18 L. Remedies. Every sale of securities as defined in this Section, the
19 registration of which has been revoked or suspended by the commissioner, or made
20 by any unregistered dealer or salesman, or by any dealer or salesman whose license
21 has been suspended or revoked, shall be voidable at the election of the purchaser, and
22 the person making such sale, and every director, officer, or agent of or for such seller
23 who shall have personally participated or aided in any way in the making of such
24 sales, shall be liable in solido to such purchaser upon tender of such securities sold,
25 or of the contract made, for the full amount paid by such purchaser with interest, all
26 taxable court costs and a reasonable attorney's fee to be fixed by the court; provided
27 that no such action shall be brought for the recovery of the purchase price after
28 thirteen months from the date of such sale, or the delivery of such security to the
29 purchaser, whichever date is latest; and provided, further, that the aforesaid interest

1 shall be computed at the rate of six ~~per centum~~ percent per annum, less, in any case,
2 the amount of any income from said insurance securities that may have been received
3 by such purchaser.

4 M.~~(F)~~ Violations; penalties.

5 (1)(a) No issuer of securities as defined in this Section, or any officer,
6 director, trustee, or agent thereof, or any dealer shall sell or offer to sell any such
7 securities without full compliance with the provisions of this Section.

8 (b) Whoever violates this ~~Subsection~~ Paragraph shall be fined not more than
9 five thousand dollars for the first offense and not more than twenty-five thousand
10 dollars for each subsequent offense, and the officer, director, trustee or agent thereof,
11 or the issuer, if a natural person, may be imprisoned for not more than one year, or
12 both.

13 (2)(a) No person or corporation, whether acting on his or its own behalf, or
14 on behalf of another, shall violate any of the provisions of this Section.

15 (b) Whoever violates this ~~Subsection~~ Paragraph shall be fined not less than
16 one hundred dollars nor more than five hundred dollars for the first offense, and not
17 less than five hundred dollars nor more than one thousand dollars for each subsequent
18 offense, or imprisoned for not more than six months for the first offense, nor more
19 than one year for each subsequent offense, or both.

20 (3)(a) No dealer or salesman shall make any statement or representation not
21 authorized by the issuer, or by a dealer registering securities under the provisions of
22 ~~R.S. 22:88(E)~~; Subsection E of this Section, or any statement or representation at
23 variance with, or not reasonably predicated upon, statements and documents filed by
24 the issuer or dealer in the office of the commissioner.

25 (b) Whoever violates this ~~Subsection~~ Paragraph shall be fined not more than
26 one thousand dollars for the first offense, and not more than five thousand dollars for
27 each subsequent offense, or imprisoned for not more than six months for the first
28 offense and for not more than one year for each subsequent offense, or both.

1 (4)(a) No person shall sign any statement, list, inventory, balance sheet, or
2 other paper or document required by any provision of this Section to be verified or
3 sworn to, knowing any representation therein contained to be false, misleading, or
4 untrue, and the depositing of any such statement or document in the office of the
5 commissioner shall be deemed prima facie evidence of knowledge of the falsity
6 thereof or of any representation therein contained, and of the wilfull signing of such
7 statement or document.

8 Whoever violates this ~~Subsection~~ Paragraph shall be guilty of perjury.

9 N. Statutory and civil remedies. Nothing in this Section shall limit any
10 statutory or civil right of any person to bring action in any court for any act involved
11 in the sale of securities as defined in this Section, or the right of this state to punish
12 any person for any violation of any law. The attorney general and each of the district
13 attorneys throughout this state, with regard to violations of this Section in their
14 respective districts, shall lend full assistance to the commissioner in any
15 investigations or prosecutions that the commissioner may deem necessary under the
16 provisions of this Section.

17 O. Appeals. An appeal may be taken by any person interested from any final
18 order of the commissioner to the district court of the parish of East Baton Rouge by
19 filing a petition therein against the commissioner, officially as defendant, within
20 twenty days after notice of the entry of such order and stating in said petition the
21 grounds upon which a reversal of such final order is sought. Such petition may be
22 accompanied by a demand upon the commissioner for a certified transcript of the
23 record and of all papers on file in his office affecting or relating to such order, and
24 such demand may be granted by the court and an order may be issued by the court
25 ordering the production of a transcript of such records upon the furnishing of bond by
26 the plaintiff, with good and sufficient security, to be approved by the court,
27 conditioned upon the faithful prosecution of such action to final judgment and upon
28 the payment of all costs including costs of making such transcript. Thereupon, the
29 commissioner shall within ten days make, certify, and file with the clerk of said court

1 such a transcript, or in lieu thereof, the original papers if the court shall so order; such
2 suit shall be given preference by the court over all matters pending in said court. The
3 court shall receive and consider the evidence, both oral and documentary concerning
4 the order of the commissioner objected to by the plaintiff. If the order of the
5 commissioner shall be reversed, the court shall enter such judgment, order, and decree
6 as the equities and exigencies may require, directing the commissioner as to his
7 further action in the matter, including the making and entering of any order or orders
8 in connection therewith, and the conditions, limitations, and restrictions to be therein
9 contained; ~~provided that~~ however, the commissioner shall not thereby be barred from
10 thereafter revoking or altering such order for any proper cause which may thereafter
11 accrue or be discovered. If said order shall be affirmed, the plaintiff shall not be
12 barred after thirty days from filing a new application, provided such new application
13 is not otherwise barred or limited. The court shall not in any wise suspend the
14 operation of any order of the commissioner during the pendency of the action. Mere
15 technical irregularities in the procedure of the commissioner shall be disregarded and
16 the burden shall rest on the plaintiff to prove his rights to a reversal of the order of the
17 commissioner. A devolutive appeal may be taken from the judgment of the district
18 court on the same terms and conditions as an appeal is taken in other civil actions.

19 P. Fees.

20 (1) In the event that any issue of securities as defined in this Section is not
21 registered for any cause by the commissioner, the commissioner is hereby authorized
22 to withhold from the application fee the sum of twenty-five dollars to defray the
23 expense actually and necessarily incurred by him for salaries and expenses in carrying
24 out the purposes of this Section.

25 (2) In the event that the application of any dealer or salesman is for any cause
26 not approved by the commissioner, the commissioner is hereby authorized to withhold
27 from the application fee the sum of ten dollars in the case of a dealer and the sum of
28 two and ~~50/100~~ one half dollars in the case of a salesman to defray the expenses

1 actually necessarily incurred by him for salaries and expenses in carrying out the
2 purposes of this Section.

3 Q. Construction. Nothing in this Section shall be construed to relieve
4 insurance companies from making reports now or hereafter required by law to be
5 made to the commissioner, or to any other state department or agency, or from paying
6 the fees, taxes, and charges now or hereafter to be paid by insurance companies. This
7 Section shall never be construed to repeal any law now in force regulating the
8 organization of insurance companies in this state or the admission of any foreign
9 insurance company, but the provisions of this Section shall be additional to any
10 provisions otherwise regulating the business of insurance.

11 * * *

12 §91. ~~Stockholders~~ Stockholders' meetings

13 Domestic stock insurers shall hold at least one stockholders' meeting annually
14 at a time and place specified in the articles of incorporation or by-laws of the insurer.
15 Each stockholder shall be entitled to vote each share of stock which he holds in his
16 own name at any and all stockholders' meetings. The right to vote any share of stock
17 may be conferred upon another stockholder by a written proxy. Any proxy may be
18 revoked at any time by the owner of the shares upon written notice to the secretary
19 of the insurer or the presiding officer at any meeting.

20 * * *

21 §94. Duties of officers

22 A. The president or, in his absence, the one so designated to act for him, shall
23 preside at all meetings of the directors and of the stockholders, unless otherwise
24 provided in the charter or bylaws.

25 B. The secretary shall keep a record of the votes and proceedings of all
26 meetings of the directors and stockholders, a list of the stockholders, the number of
27 shares standing in the name of each, and a record of all transfers of shares. The
28 secretary, or other authorized officer, shall keep a record of policies issued and all
29 authorized assignments, cancellations, and transfers thereof. He shall keep such other

1 books and perform such other duties as the president and board of directors may
2 require. The intentional making of any false record by the secretary or any other
3 officer of the insurer shall be deemed an act of perjury.

4 * * *

5 §96. Voluntary dissolution

6 A. A domestic insurer may, after a two-thirds affirmative vote of its
7 stockholders, policyholders or subscribers, voluntarily discontinue its business and
8 dissolve its corporate existence by: (1) consolidation or merger; (2) reinsuring its
9 entire business under Subpart E of Part III of this Chapter ~~2 of this Title~~, R.S. 22:651,
10 et seq.; or (3) cancelling its policy obligations and refunding the pro rata unearned
11 premiums thereon, except as to its life insurance contracts, which shall be reinsured
12 pursuant to Subpart E of Part III of this Chapter, ~~2 of this Title~~. After adequate
13 provision has been made for the protection of its policyholders and creditors, such
14 domestic insurer may petition the commissioner of insurance to distribute its
15 remaining assets to its stockholders, policyholders, or subscribers as may be provided
16 in a dissolution agreement. No such plan of voluntary dissolution under this Section
17 shall be effective until approved in writing by the commissioner of insurance.

18 * * *

19 §111. Surplus requirements; applicants prior to September 1, 1989

20 A. Domestic mutual insurers who apply for a certificate of authority prior to
21 September 1, 1989, may transact the following kinds of insurance in this state upon
22 qualifying therefor and by having an initial minimum surplus represented by assets
23 as follows:

24		Initial
25		Minimum
26	<u>Insurance</u>	<u>Surplus</u>
27	(1) Life	\$ 300,000
28	(2) Health and accident	300,000
29	(1) and (2) above	300,000

1	(3) Vehicle physical damage	250,000
2	(4) Title	75,000
3	(5) Industrial fire	300,000
4	(6) Any company organized and authorized to	
5	transact worker's compensation only as of	
6	July 27, 1966	150,000
7	(7) Any company organized and authorized to	
8	transact crop and livestock insurance only	
9	as of July 27, 1966	250,000
10	(8) Vehicle	1,000,000
11	(9) Liability	1,000,000
12	(10) Worker's compensation	1,000,000
13	(11) Burglary and forgery	1,000,000
14	(12) Glass	1,000,000
15	(13) Fidelity and surety	1,000,000
16	(14) Fire and extended coverage	1,000,000
17	(15) Steam boiler and sprinkler leakage	1,000,000
18	(16) Crop and livestock	1,000,000
19	(17) Marine and transportation (except hull)	1,000,000
20	(18) Miscellaneous	1,000,000
21	(19) All insurances, except life and title	1,000,000

22 B. For the ~~purpose~~ purposes of this Section, "vehicle physical damage
 23 insurance" shall be defined as insurance against loss or damage to any land vehicle
 24 or property while contained therein or thereon or being loaded or unloaded therein or
 25 therefrom.

26 ~~B.~~ C. Authority shall be granted mutual insurers upon compliance with all
 27 applicable requirements to transact combinations of kinds of insurance except as
 28 follows:

1 (1) An insurer authorized to transact life insurance shall not be authorized to
2 transact any additional kind of insurance other than health and accident insurance.

3 (2) An insurer authorized to transact title insurance shall not be authorized to
4 transact any additional kind of insurance.

5 ~~€. D.~~ Domestic mutual insurers who apply for a certificate of authority on or
6 after September 1, 1989, shall meet the initial minimum surplus and operating surplus
7 requirements and other requirements of R.S. 22:112.

8 §112. Surplus requirements; applicants on and after September 1, 1989

9 * * *

10 B. For the ~~purpose~~ purposes of this Section, "vehicle physical damage
11 insurance" shall be defined as insurance against loss or damage to any land vehicle
12 or property while contained therein or thereon or being loaded or unloaded therein or
13 therefrom

14 * * *

15 D. For the ~~purpose~~ purposes of this Section, assets representing at least fifty
16 percent of the operating surplus shall be maintained in cash or cash equivalents
17 prescribed by the commissioner.

18 * * *

19 §116. Methods of acquiring surplus

20 The initial minimum sum required may be raised by the insurer in the
21 following manner:

22 (1) By payment in advance of premiums by persons who desire to become
23 policyholders and members of the mutual insurer. Such payments must be made in
24 cash, and all sums so received shall be delivered in escrow to a depository satisfactory
25 to the ~~Commissioner~~ commissioner of ~~Insurance~~ insurance under an escrow
26 agreement providing that the organizers or promoters of the mutual insurer shall not
27 be entitled to withdraw such sums so deposited in escrow until sufficient initial
28 minimum surplus shall have been raised within the prescribed period of time as
29 provided by R.S. 22:115, and further containing a provision that in case sufficient

1 funds have not been raised within the said prescribed period, all funds so deposited
2 in escrow shall be refunded to the advance premium payors by the escrow agent; or

3 (2) The mutual insurer may borrow a sum of money sufficient to defray the
4 reasonable expenses of its organization and to meet the requirements of R.S. 22:111
5 upon an agreement with the lender that the same, with interest at a rate not exceeding
6 eight ~~per cent~~ percent per annum, shall be repaid only in the event that after such
7 repayment with interest, the insurer shall be left possessed of sufficient assets to meet
8 all of its liabilities and to maintain a full reserve against all its policies and to maintain
9 the minimum surplus required by R.S. 22:111. Such agreement shall provide that the
10 insurer shall have the option to make such payment of the loan or any part thereof
11 whenever it shall be able to do so in accordance with the ~~above~~ requirements of this
12 Section.

13 §117. Dividends

14 No domestic mutual insurer shall pay any dividends to its policyholders unless
15 it has a surplus beyond the initial minimum surplus required and all other liabilities,
16 except a liability created under R.S. 22:116(2), equal to fifteen ~~per cent~~ percent of
17 such initial minimum surplus.

18 * * *

19 §119. Policyholders' meetings; voting rights

20 A. Domestic mutual insurers shall hold at least one policyholders' meeting
21 annually at a time and place specified in the charter or bylaws of the insurer. Each
22 policyholder shall be entitled to one vote on matters coming before corporate
23 meetings of the policyholders, subject to such reasonable minimum requirements as
24 to duration of his policy and amount of insurance held as may be made in the insurer's
25 charter or by-laws.

26 B. The right to vote by any policyholder may be conferred upon any other
27 policyholder by a written proxy. Any proxy may be revoked at any time by the
28 policyholder, upon written notice to the secretary of the insurer or the presiding
29 officer at any meeting.

1 §120. Elections of officers and directors

2 Election of officers and directors shall be made in the manner specified in the
3 charter or bylaws of the insurer, provided that:

4 * * *

5 (6) The board of directors shall meet at least six times a year and ~~oftener~~ as
6 often as may be required in the bylaws of the company;

7 * * *

8 §124. Domestic nonprofit mutual associations; insurer

9 Notwithstanding any law, regulation, or definition to the contrary, a domestic
10 nonprofit mutual association, as defined in this Section, is deemed to be an insurer for
11 the purposes of all surplus requirements, policy reserve requirements, and liquidation,
12 conservation, rehabilitation, and receivership proceedings all as defined and set out
13 in ~~R.S. 22:1 et seq.~~ this Title. For purposes of this Section, a domestic nonprofit
14 mutual association shall include a domestic nonprofit mutual association which is
15 engaged exclusively in the business of furnishing hospital service, medical, or
16 surgical benefits, or any similar entity.

17 * * *

18 §132. Policy provisions

19 A. No service insurer shall issue a policy for a term of more than twenty years
20 and all policies issued shall be incontestable after the lapse of one year from the date
21 of its issue, except for non-payment of premiums or assessments. Thirty days written
22 notice must be given to the policyholder before any policy shall be lapsed or forfeited
23 for non-payment of premiums or assessments. All policy forms, endorsements, riders,
24 and applications must be submitted to and approved by the ~~Commissioner~~
25 commissioner of Insurance ~~insurance~~ before being used.

26 B. Each policy must specify those things which constitute the service to be
27 furnished, performed, or rendered; and must also provide on the face of the funeral
28 benefit policy a stated cash payment which will be made in lieu of such services in
29 the event it is impossible or impractical to furnish such services as set forth in the

1 policy. This cash payment shall be not less than one hundred percent of the stated
2 value of such services, ~~on policies written after the effective date of this Section.~~

3 * * *

4 D. Such funeral policies shall also conform to the requirements of R.S.
5 22:149(A)(2), (4), (5), (6), (7), (8), and (9).

6 §133. Deposits

7 ~~A.~~ All domestic service insurers shall, in addition to all other requirements,
8 deposit with the commissioner of insurance a safekeeping or trust receipt of a bank
9 doing business within this state or a savings and loan association chartered to do
10 business in this state, indicating that five thousand dollars in money or approved
11 bonds of the United States, the state of Louisiana, or any political subdivision thereof,
12 of the par value of not less than twenty thousand dollars has been deposited, the value
13 thereof to be maintained; ~~which~~ Such deposit shall be held subject to the claim of any
14 judgment creditor arising and accruing by virtue of any policy or certificates issued
15 by such insurer, through judgment obtained against it in any court of this state, or in
16 any federal court in this state.

17 ~~B. Service insurers already organized and qualified under the laws of this~~
18 ~~state as of the effective date of this Section shall continue to have the same~~
19 ~~underwriting powers they had as of that date, provided all such insurers shall increase~~
20 ~~the deposit requirement to the amount set out in Subsection A of this Section on or~~
21 ~~before October 1, 1982.~~

22 * * *

23 §135. Incorporation of service insurers prohibited

24 No domestic service insurance company may be organized and no alien or
25 foreign service insurer may be qualified ~~hereunder~~ by this Subpart to do business in
26 this state after twelve o'clock noon of August 1, 1964.

27 §141. Industrial insurance defined

28 Industrial life insurance is hereby defined and shall be construed to be that
29 insurance which is issued by: ~~a~~(1) a domestic life insurance company, qualified as

1 an industrial insurer; ~~;~~ or (2) a life insurer, domestic or foreign, whose policies provide
2 any or all of the benefits enumerated in R.S. 22:142, and whose policies shall not
3 exceed the limitation set forth therein and whose policy provisions and nonforfeiture
4 benefits are at least as favorable to the policyholder as those contained in R.S. 22:~~149~~;
5 ~~and R.S. 22:146 and 149~~, respectively.

6 §142. Limitations

7 * * *

8 C. The limits provided in Subsections A ~~and B~~ of this Section shall be
9 increased to the underwriting limits provided in R.S. 22:148 for those insurers who
10 are entitled to increased underwriting powers under its provisions.

11 * * *

12 §143. Funeral described; benefits payable

13 A.

14 * * *

15 (4) The provisions of this Subsection shall be applicable to all claims existing
16 or actions pending on July 6, 2004, and all claims arising or actions filed on or after
17 July 6, 2004. The provisions of this Paragraph shall not be construed to ~~effect~~ affect
18 any claim arising from or involving any misrepresentation as to the terms and
19 conditions of the policy by an insurer or its agent to the insured.

20 * * *

21 §146. Nonforfeiture benefits

22 * * *

23 B. Within eight weeks after the due date of the first defaulted premium on
24 policies of industrial life insurance on which premiums have been paid for five full
25 years, application shall be made in writing by the assured, on blanks to be furnished
26 by the insurer at the insured's request for that purpose, for paid-up insurance, payable
27 at the same time, and under the same conditions, except as to payment of premiums,
28 as the original policy, or for the continuance of the insurance in force at its full
29 amount, less any indebtedness to the insurer, for such period as the net reserve will

1 purchase, or for cash value of the policy, all computed as ~~hereinabove~~ provided in this
2 Section. The term of temporary insurance herein provided for shall include the period
3 of grace, if any. If no option herein provided for shall be availed of by the assured,
4 the reserve herein provided, without further action on the part of the assured, shall be
5 applied either to purchase paid-up insurance or to continue the insurance in force at
6 its full amount as ~~hereinabove~~ provided in this Section. However, in the case of any
7 endowment policy, if the sum applicable to the purchase of temporary insurance be
8 more than sufficient to continue the insurance to the end of the endowment term
9 named in the policy the excess shall be used to purchase in the same amount pure
10 endowment insurance payable at the end of the endowment term named in the policy
11 under the conditions on which the original policy was issued. The policy shall state
12 which of the two forms will be automatic. In calculating nonforfeiture values as
13 herein provided there shall be included all dividend additions from participating
14 policies.

* * *

§148. Powers of existing industrial insurers

17 Industrial insurers already organized and qualified under the industrial laws
18 of this state as of twelve o'clock noon of October 1, 1948, shall continue to have the
19 same underwriting powers they had as of that date without the necessity of meeting
20 the increased capital or deposit requirements of this ~~code~~ Code. All policies issued
21 subsequent to twelve o'clock noon of October 1, 1948, by such insurers must conform
22 to the provisions of this code, except as to the amount of insurance which may be
23 written on a single life. No industrial insurer, not authorized to write policies in
24 excess of one thousand two hundred fifty dollars as of twelve o'clock noon of October
25 1, 1948, can acquire such authority except by conversion to another type insurer,
26 provided, however, that when any domestic industrial insurer, not so previously
27 authorized, shall meet the minimum capital, surplus and deposit requirements, if a
28 stock company, or the minimum initial surplus and deposit requirements, if a mutual
29 company, required by this ~~code~~ Code of an ordinary insurer, it may, after appropriate

1 charter amendment and without conversion to an ordinary insurer, or after conversion,
2 issue industrial insurance on a single life in an amount not to exceed two thousand
3 five hundred dollars exclusive of multiple indemnity, subject to all other provisions
4 of this Subpart applicable to industrial insurers except as to amount.

5 §149. Required policy provisions

6 A. All industrial life insurance policies, delivered or issued for delivery in this
7 state, shall contain, in substance, the following provisions, or provisions submitted by
8 the insurer which in the opinion of the commissioner of insurance are more favorable
9 to policyholders:

10 (1) Grace period. A provision that the insured is entitled to a grace period of
11 four weeks within which the payment of any premium after the first may be made,
12 except that where premiums are payable monthly, or less frequently, the period of
13 grace shall be either one month or thirty days, during which period of grace the policy
14 shall continue in full force but in case the policy becomes a claim within said grace
15 period any overdue premiums may be deducted in any settlement under the policy.

16 (2) The contract. A provision that the policy shall constitute the entire
17 contract between the parties, or at the option of the insurer, a provision that the policy
18 and the application therefor shall constitute the entire contract between the parties,
19 and in the latter case the policy must contain a provision that all statements made by
20 the insured shall, in the absence of fraud, be deemed to be representations and not
21 warranties.

22 (3)~~(A)~~ Incontestability. A provision that the policy shall be incontestable after
23 it shall have been in force during the lifetime of the insured for a specified period, not
24 more than two years from its date, except for nonpayment of premiums and except for
25 violation of the conditions of the policy relative to naval or military service, or
26 services auxiliary thereto, and except as to provisions relating to benefits in the event
27 of disability as defined in the policy, and those granting additional insurance
28 specifically against death by accident or by accidental means, or to additional
29 insurance against loss of, or loss of use of, specific members of the body. Provided

1 a clause in any policy of industrial life insurance issued under this Code providing
2 such policy shall be incontestable after a specified period shall preclude only the
3 contest of the validity of the policy, and shall not preclude the assertion at any time
4 of defenses based upon provisions which exclude or restrict coverages approved in
5 this Paragraph ~~(3)~~ whether or not such restriction or exclusions are excepted in such
6 clause; nor upon a provision regarding misstatement of age as provided in Paragraph
7 (4) of this ~~Section~~ Subsection, whether or not such provision is excepted in such
8 clause.

9 ~~(B) No policy of industrial life insurance issued under this Section shall~~
10 ~~contain any provision which excludes or restricts liability for death caused in a certain~~
11 ~~specified manner or occurring while the insured has a specified status, except the~~
12 ~~following provisions, or provisions which in the opinion of the insurance~~
13 ~~commissioner are substantially the same or more favorable to the policyholders:~~

14 ~~Provisions excluding or restricting coverage in the event of death occurring:~~

15 ~~(a) As a result of war declared or undeclared under conditions specified in the~~
16 ~~policy:~~

17 ~~(b) While in~~

18 ~~(i) the military, naval or air forces of any country at war declared or~~
19 ~~undeclared, or~~

20 ~~(ii) any ambulance, medical, hospital, or civilian noncombatant units serving~~
21 ~~with such forces, either while serving with or within six months after termination of~~
22 ~~service in such forces or units:~~

23 ~~(c) As a result of self-destruction while sane or insane within two years from~~
24 ~~the date of issue of the policy:~~

25 ~~(d) As a result of aviation under conditions specified in the policy:~~

26 ~~(e) Within two years from date of issue of the policy as a result of a specified~~
27 ~~hazardous occupation or occupations, or while the insured is residing in a specified~~
28 ~~foreign country or countries:~~

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

6 ~~In the event of death as to which there is an exclusion or restriction pursuant~~
7 ~~to Subparagraph (b) of this provision, the insurer shall pay the greater of (a) the~~
8 ~~amount specified in the preceding paragraph or (b) the amount of the gross premiums~~
9 ~~charged on the policy less dividends paid in cash or used in the payment of premiums~~
10 ~~thereon and less any indebtedness to the insurer on the policy, including interest due~~
11 ~~or accrued.~~

12 ~~None of the provisions of this Subsection shall apply to policies issued under~~
13 ~~R.S. 22:143 and 751(E), nor to any accidental benefits in the event such death be by~~
14 ~~accident or accidental means included in a life policy.~~

15 (4) Misstatement of age. A provision that if the age of the person insured, ~~(or~~
16 ~~or the age of any other person considered in determining the premium)~~ premium, has
17 been misstated, any amount payable or benefit accruing under the policy shall be such
18 as the premium paid would have purchased at the correct age or ages.

19 (5) Participating policy. If the policy is a participating policy, a provision that
20 the insurer shall periodically ascertain and apportion any divisible surplus accruing
21 on the policy.

22 (6) Reinstatement. A provision that the policy may be reinstated at any time
23 within one year from the due date of the premium in default unless the cash surrender
24 value has been paid, or the extension period expired, upon the production of evidence
25 of insurability including good health satisfactory to the insurer and the payment of all
26 overdue premiums and any unpaid loans or advances made by the insurer against the
27 policy with interest at a rate not exceeding six percent payable annually.

1 (7) Claim provision. A provision that when a policy shall become a claim by
2 the death of the insured, settlement shall be made upon receipt of due proof of death
3 or after a specified period not exceeding two months after receipt of such proof.

4 (8) Subject of insurance. A title on the face of the policy briefly describing its
5 form.

6 (9) Beneficiary requirement. A space on the front or back page of the policy
7 for the name of the beneficiary designated with a reservation of the right to designate
8 or change the beneficiary after the issuance of the policy. The policy may also
9 provide that no designation or change of beneficiary shall be binding on the insurer
10 until endorsed on the policy by the insurer, and that the insurer may refuse to endorse
11 the name of any proposed beneficiary who does not appear to the insurer to have an
12 insurable interest in the life of the insured. Such policy may also contain a provision
13 that the insurer may make any payment or grant any non-forfeiture provision to any
14 of the insured's relatives by blood or legal adoption or connection by marriage, or to
15 any person appearing to the insurer to be equitably entitled thereto by reason of
16 having been named beneficiary, or by reason of having incurred expense for the
17 maintenance, medical attention, or burial of the insured, and the production by the
18 insurer of a receipt signed by any of said persons shall be evidence that such payment
19 or privilege has been made or granted to the person or persons entitled thereto and
20 that all claims under the policy have been fully satisfied.

21 B. Exclusions and limitations. No policy of industrial life insurance issued
22 under this Section shall contain any provision which excludes or restricts liability for
23 death caused in a certain specified manner or occurring while the insured has a
24 specified status, except the following provisions, or provisions which in the opinion
25 of the insurance commissioner are substantially the same or more favorable to the
26 policyholders:

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

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

3 (b) While in:

4 (i) The military, naval, or air forces of any country at war declared or
5 undeclared; or

6 (ii) Any ambulance, medical, hospital, or civilian noncombatant units serving
7 with such forces, either while serving with or within six months after termination of
8 service in such forces or units.

9 (c) As a result of self-destruction while sane or insane within two years from
10 the date of issue of the policy.

11 (d) As a result of aviation under conditions specified in the policy.

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

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

20 (3) In the event of death as to which there is an exclusion or restriction
21 pursuant to Subparagraph (1)(b) of this Subsection, the insurer shall pay the greater
22 of: (a) the amount specified in Paragraph (2) of this Subsection; or (b) the amount of
23 the gross premiums charged on the policy less dividends paid in cash or used in the
24 payment of premiums thereon and less any indebtedness to the insurer on the policy,
25 including interest due or accrued.

26 (4) None of the provisions of this Subsection shall apply to policies issued
27 under R.S. 22:143 and 751(E), nor to any accidental benefits in the event such death
28 be by accident or accidental means included in a life policy.

29 §150. Exceptions

1 The requirements in R.S. 22:149 shall not be applicable as follows:

2 (1) When an industrial life insurance policy is issued by any domestic,
3 foreign, or alien insurer providing other benefits, in addition to life insurance, the
4 ~~foregoing~~ provisions of R.S. 22:149 shall apply only to the life insurance portion of
5 the policy.

6 (2) Any of the ~~foregoing~~ provisions of R.S. 22:149 or portions thereof not
7 applicable to non-participating or term or paid-up policies shall to that extent not be
8 incorporated therein.

9 §161. Scope of Subpart

10 * * *

11 B. As used in this Subpart, "subscriber" means the participant or policyholder;
12 "attorney-in-fact" means the representative of the subscribers through whom
13 reciprocal insurance is exchanged; and "reciprocal insurer" means the organization
14 or group of all the subscribers.

15 * * *

16 §165. Minimum application and surplus requirements

17 A. A domestic reciprocal insurer, if it has otherwise complied with the
18 provisions of this Code, may be authorized to exchange contracts of insurance in this
19 state upon qualifying therefor and by having initial minimum assets as follows:

	Initial
	Minimum
<u>Insurance</u>	<u>Surplus</u>
23 (1) Health and accident	\$ 300,000
24 (2) Vehicle physical damage	250,000
25 (3) Title	75,000
26 (4) Industrial fire	300,000
27 (5) Any company organized and authorized to	
28 transact worker's compensation only as of	
29 July 27, 1966	150,000

1	(6) Any company organized and authorized to	
2	transact crop and livestock insurance only as	
3	of July 27, 1966	250,000
4	(7) Vehicle	1,000,000
5	(8) Liability	1,000,000
6	(9) Worker's compensation	1,000,000
7	(10) Burglary and forgery	1,000,000
8	(11) Glass	1,000,000
9	(12) Fidelity and surety	1,000,000
10	(13) Fire and extended coverage	1,000,000
11	(14) Steam boiler and sprinkler leakage	1,000,000
12	(15) Crop and livestock	1,000,000
13	(16) Marine and transportation	1,000,000
14	(17) Miscellaneous	1,000,000
15	(18) All insurances, except life and title	1,000,000

16 B. For the ~~purpose~~ purposes of this Section, vehicle physical damage
 17 insurance shall be defined as insurance against loss or damage to any land vehicle or
 18 property while contained therein or thereon or being loaded or unloaded therein or
 19 therefrom.

20 ~~B. C.~~ Insurers already organized and qualified under the laws of this state as
 21 of July 27, 1966, shall continue to have the same underwriting powers they had as of
 22 that date, provided all such insurers shall increase the surplus requirements to the
 23 amounts set out in Subsection A of this Section ~~165~~ on or before August 1, 1967.

24 * * *

25 §168. Documents to be filed

26 A. Upon execution of the declaration of organization, there shall be filed with
 27 the commissioner of insurance the following:

28 (1) The declaration of organization.

1 (2) A copy of the power of attorney of the attorney-in-fact under or by virtue
2 of which insurance contracts are to be effected or exchanged.

3 (3) The insurer's irrevocable authorization of the secretary of state, and his
4 successors in office, to receive legal process issued in this state against the insurer.

5 (4) All forms of insurance policies or contracts and endorsements proposed
6 to be used and the forms of applications therefor.

7 ~~(5) Two organization bonds, or the cash or securities provided for in R.S.~~
8 ~~22:169.~~

9 B. Upon approval of the commissioner of insurance, he shall record with the
10 secretary of state ~~Paragraphs (1), (2) and (3) of this Section.~~ a copy of the insurer's
11 irrevocable authorization of the secretary of state, and his successors in office, to
12 receive legal process issued in this state against the insurer.

13 * * *

14 §171. Deposit

15 Each domestic reciprocal insurer shall make and maintain with the
16 commissioner of insurance a safekeeping or trust receipt from a bank doing business
17 in this state indicating that a deposit of cash or approved securities has been made in
18 an amount required by Part II of Chapter 3 of this Title ~~22 of the Louisiana Revised~~
19 ~~Statutes of 1950.~~

20 §172. Certificate of authority

21 When the commissioner of insurance has been notified that the required bona
22 fide applications have been received and that the reciprocal insurer has received from
23 each subscriber the full annual premium or premium deposit required for each policy
24 applied for and has on hand the initial surplus provided in R.S. 22:165, ~~or, in lieu of~~
25 ~~these requirements, that the minimum surplus provided in R.S. 22:436[†]~~ if it is to
26 transact one kind of business only is on hand, he shall conduct an examination of the
27 insurer. If he finds that the organization is complete, and that all of the requirements
28 of the Code have been met, he shall issue to the attorney-in-fact a certificate of
29 authority in the name of the insurer to transact the kind or kinds of business specified

1 therein. No attorney-in-fact shall transact any business of insurance until the
2 certificate of authority has been received nor any business not specified in such
3 certificate of authority.

4 * * *

5 §175. Non-assessable contracts

6 ~~Except as provided in R.S. 22:436⁺, any~~ Any domestic reciprocal insurer
7 authorized so to do by its declaration of organization may issue policies without
8 contingent liability of the subscriber for assessment upon approval of the
9 commissioner of insurance and upon compliance with the following requirements:

10 §176. Contributed surplus

11 The attorney-in-fact or subscribers of a reciprocal insurer may make
12 contributions to surplus under agreements approved by the commissioner of insurance
13 which may provide for the payment of interest not exceeding eight ~~percent~~ percent
14 per annum and shall provide that the contributions and interest thereon shall be repaid
15 only out of the surplus of such insurer in excess of the original surplus required of
16 such insurer by R.S. 22:165. Such excess of surplus shall be calculated upon the fair
17 market value of the assets of the insurer, and any contributions to surplus shall
18 constitute and be enforceable as a liability of the insurer only as against such excess
19 of surplus. Any unpaid balance of such contributions to surplus shall be reported in
20 the annual statement to be filed with the commissioner of insurance and no part of
21 such contributions shall be repaid to the contributors, except under such terms and in
22 such circumstances as are approved by the commissioner of insurance.

23 §177. Process

24 * * *

25 B. When such process is served upon the secretary of state, duplicate copies
26 of such process shall be delivered to him and he shall immediately forward one copy
27 of such process to the insurer's attorney-in-fact, by registered mail with return receipt
28 requested, postage prepaid, giving the day and hour of such service.

29 * * *

1 §183. Application for receiver, ~~etc.~~

2 No proceedings for the dissolution of, or the appointment of a receiver for, any
3 domestic reciprocal insurer shall be entertained by any court in this state unless the
4 same is made by the commissioner of insurance in accordance with R.S. 22:73, 96,
5 ~~Chapter 9 of this Title and Subpart H of Part III of this Chapter, 2 of this Title, R.S.~~
6 22:731 et seq., and Chapter 9 of this Title, R.S. 22:2001 et seq.

7 * * *

8 SUBPART G. ~~NON-PROFIT~~ NONPROFIT
9 FUNERAL SERVICE ASSOCIATIONS

10 §191. Definitions

11 For the purposes of this Subpart, the terms stated ~~below~~ in this Section have
12 the meanings assigned to them, respectively, unless the context otherwise requires:

13 (1) ~~"Non-profit Nonprofit funeral service association" or "non-profit nonprofit~~
14 association" means a corporation organized, incorporated, and operated under the
15 provisions of this Subpart which furnishes to its policyholders funeral services,
16 supplies, and other benefits hereinafter authorized on the assessment or ~~co-operative~~
17 cooperative plan, but the term shall not be construed to affect or apply to grand or
18 subordinate lodges of Masons, Odd Fellows, Knights of Columbus, Daughters of
19 America, or ~~to~~ any other fraternal benefit society organized and qualified prior to
20 12:00 noon, October 1, 1948.

21 (2) "Policyholder" means any person who is named as a beneficiary in a policy
22 or certificate of membership issued by a ~~non-profit nonprofit~~ funeral association.

23 (3) "Insured bank" means a bank, the deposits of which are insured by the
24 Federal Deposit Insurance Corporation.

25 (4) "Funeral services and supplies" means the general and usual services
26 rendered and supplies furnished by undertakers, embalmers, and funeral directors.

27 §192. Incorporation and qualification of incorporators

28 A.(1) Five or more natural persons who are residents of this state of full age,
29 or fully relieved by emancipation of all disabilities attaching to minority, may form

1 a ~~non-profit~~ nonprofit corporation, under the provisions of this Subpart, having for
2 its purpose the establishing, maintaining, and operating of a ~~non-profit~~ nonprofit
3 funeral service plan.

4 (2) No such insurer, however, may be organized and no alien or foreign
5 insurer may be qualified hereunder to do business in this state after 12:00 noon of
6 August 1, 1956.

7 B. All associations now operating and authorized under this Subpart, as of
8 12:00 noon, August 1, 1956, to do business in this state, may continue to operate,
9 provided that, from and after December 31, 1956, all policies issued by such insurers
10 and the income therefrom and investment thereof, shall be subject to and in
11 accordance with the laws and regulations of this state relative to industrial life
12 insurance, and especially subject to the provisions of this Code relative to domestic
13 industrial insurers, and shall be authorized to issue only funeral benefit policies in
14 amounts not exceeding an aggregate of five hundred dollars, ~~(including the amount~~
15 ~~of any existing assessment policies)~~, on any single life, with no multiple indemnity
16 benefits. The operation of all present insurers shall be governed by the provisions of
17 this Subpart; and by all the applicable provisions of this Code.

18 §193. Articles of incorporation

19 A. Articles of incorporation shall be executed by authentic act signed by each
20 of the incorporators, or by his agent duly authorized by authentic act, which
21 authorization shall be attached to the articles of incorporation, and shall state:

22 (1) The name of the association;

23 (2) That it is formed for the purposes of establishing, maintaining, and
24 operating a ~~non-profit~~ nonprofit funeral service plan;

25 (3) Its duration;

26 (4) The location and post office address of its principal office;

27 (5) The full names and post office addresses of officers designated by it for
28 service of process;

1 (6) The number, terms of office, and manner of election of directors and
2 officers; and the names and post office addresses and respective titles of the first
3 officers;

4 (7) Provisions for meetings at least annually of the policyholders;

5 B. In addition to the ~~above~~ information specified in Subsection A of this
6 Section, the articles may contain any provision creating, defining, dividing, limiting,
7 or regulating the powers of the directors, officers, or policyholders or any other
8 provisions not inconsistent with this Subpart or the laws of this state for the carrying
9 out of the purposes and the conduct of the affairs of the association.

10 §194. The corporate name

11 A. The corporate name must end with the words "Funeral Association" or the
12 words "Funeral Association Incorporated" or the words and abbreviation "Funeral
13 Association, Inc."

14 B. The corporate name shall not be the same as nor deceptively similar to the
15 name of any other domestic insurer nor any foreign insurer authorized to do business
16 in this state.

17 §195. Filing and recording articles; application for certificate of authority; issuing
18 certificates of incorporation and authority

19 A. The articles, or a multiple original thereof, shall be recorded in the office
20 of the recorder of mortgages of the parish in which the registered office of the
21 association is situated and a certified copy of the articles bearing the certificate of the
22 proper recorder of mortgages showing the date when the articles were filed for record
23 in his office, together with an application signed by the first directors for a certificate
24 of authority to operate under this Subpart, shall be delivered to the commissioner of
25 insurance. If the commissioner of insurance finds the facts conform to the law, he
26 shall approve same, and the ~~Articles~~ articles shall be recorded in the manner specified
27 in R.S. 22:64.

28 B. There shall be attached to the application for certificate of authority the
29 following:

1 (1) A sworn statement of its president or vice-president and treasurer
2 showing:

3 (a) The number of persons, which shall not be less than five hundred, who
4 have, in good faith, made application in writing for policies and the number of those
5 persons who fall within each class or group as provided in the ~~by-laws~~ bylaws of the
6 association;

7 (b) That there has been created and deposited with an insured bank to the
8 credit of the association a sum of money as a reserve fund equal to the aggregate
9 amount of the initial membership fees, as required by the ~~by-laws~~, bylaws, of all
10 persons who have made application in writing for policies or the sum of ten thousand
11 dollars, whichever is the greater;

12 (c) That the association has created no debts and is under no obligation except
13 to issue policies to the persons who have made application therefor;

14 (2) Copies of proposed forms of applications, policies, or membership
15 certificates and ~~by-laws~~, bylaws.

16 * * *

17 §196. Application for policies

18 A. All applications for policies shall be signed on a written, typewritten, or
19 printed form identical with the form of application filed with the commissioner of
20 insurance for policies of the type to be issued and, in addition to the signature of the
21 applicant, or his mark in case he is unable to write, must be signed by the officer or
22 agent of the association soliciting or receiving the application. No ~~agent~~ producer
23 may sign any application which he has not personally solicited or received.

24 B. The applications for policies must state; the age on the nearest birthday of
25 each person for whose benefit the application is made; that no person named in the
26 application as a beneficiary is less than one month nor more than seventy years of
27 age; that each person named in the application as a beneficiary is in good health, free
28 from any chronic disease, and not under treatment by any doctor and that, subject to
29 its incontestability after one year from its date, except for non-payment of

1 assessments, any misrepresentation in the application in regard to the health or age
2 of any beneficiary at the time the application is signed will forfeit all rights to policy
3 benefits; and such other statements not inconsistent herewith as may be required by
4 the articles or by-laws.

5 C. All applications for policies must be kept on file in the office of the
6 association. When any policyholder shall die, the application of such policyholder
7 shall be retained for a period of at least three years after his death and the original
8 applications for all policies which subsequently become lapsed or forfeited shall be
9 retained for a period of at least three years after the date of the lapse or forfeiture
10 thereof.

11 D. A policyholder in good health and not over seventy years of age who has
12 permitted his policy to lapse may rejoin upon terms fixed in the ~~by-laws~~ bylaws of the
13 association and signing a statement in regard to his health as in the original
14 application. Policyholders whose policies have lapsed and who are over seventy and
15 under ninety years of age may reinstate only in the old age group.

16 E. In the case of family group policies, the application must be signed by one
17 or more members of the family group to be covered by the policy.

18 §197. Policies

19 A. Every policy issued by any association authorized under this Subpart shall
20 have plainly printed on the first page thereof the words "Assessment or ~~Co-operative~~
21 Cooperative Plan", shall specify the services which it promises to furnish, the
22 contingency upon which it agrees to furnish the same, the name of each beneficiary,
23 the class or group in which each beneficiary is placed, the amount of each assessment
24 to be required of each beneficiary, and the value of the benefit to be furnished each
25 beneficiary. There shall be printed on each policy, either on the reverse thereof or a
26 sheet attached thereto, a copy of the bylaws of the association. The policy may also
27 contain any other provision, language, or appendage not calculated to operate as a
28 fraud upon, or mislead, the policyholder.

29 * * *

1 §198. ~~By-laws~~ Bylaws

2 A. The board of directors of an association authorized under this Subpart may
3 make and alter ~~by-laws~~ bylaws not inconsistent with the law or articles. The initial
4 ~~by-laws~~ bylaws filed with the articles shall be signed by the first directors named in
5 the articles.

6 B. The by-laws of all associations authorized under this Subpart shall contain:

7 (1) A statement that the treasurer shall make all assessments and pay out all
8 money belonging to the association;

9 (2) The name of the undertaker or funeral directing firm with which the
10 association has contracted to furnish the services specified in the policies;

11 (3) A description of the various classes or groups into which the policyholders
12 are divided, the benefits to be furnished each class or group, the amount of the
13 assessment of the members of each class or group, and the contingency upon which
14 the assessment shall or may be made;

15 (4) The period of delay after assessment, which shall be not less than thirty
16 days, within which assessments must be paid in order to prevent the forfeiture of
17 policies;

18 (5) The person, firm, or corporation to be notified in event of the death of a
19 policyholder or beneficiary;

20 (6) The time and place of the annual meeting of policyholders;

21 (7) The notice and manner of calling special meetings of policyholders; ~~and~~

22 C. The bylaws may contain any other lawful provisions which may be desired
23 for the purpose of defining, limiting, and regulating the exercise of the authority of
24 the association, directors, officers, or policyholders.

25 §199. Amendment of articles and ~~by-laws~~ bylaws

26 A. The articles may be amended by the board of directors with the approval
27 of the commissioner of insurance. The amendment shall be adopted by the board at
28 any regular or special meeting and then submitted to the commissioner of insurance,
29 who shall approve the same unless it is contrary to law. Upon its approval by the

1 commissioner of insurance, the amendment shall be recorded in the manner provided
2 in R.S. 22:67.

3 B. The board of directors may at any regular or special meeting adopt
4 amendments to the ~~by-laws~~, bylaws, subject to the approval of the commissioner of
5 insurance, but no amendment that provides for the extension of the benefits of the
6 policies of the association to a group or class of persons not previously provided for
7 or provides for any change with respect to the benefits to be furnished any group or
8 class of policyholders or provides for any change regarding the amount of any
9 assessments or contingency upon which any assessment shall or may be made or
10 provides for any change as to the period of delay within which assessments must be
11 paid in order to prevent the forfeiture of policies or changes the time or place of the
12 annual meeting of policyholders; shall be approved unless ratified by the
13 policyholders at a regular or special called meeting of policyholders.

14 §200. Directors

15 A. Subject to such limitations, restrictions, or reservations as may be provided
16 in the articles, the ~~by-laws~~ bylaws, or this Subpart, all of the corporate powers shall
17 be vested in and the affairs of the association shall be managed by a board of not less
18 than three nor more than fifteen directors who must be policyholders in good
19 standing.

20 B. The number, qualifications, terms of office, manner of election, time and
21 place of and manner of calling and holding meetings, powers and duties, and method
22 of and cause for removal of directors may, subject to the provisions of this Subpart,
23 be prescribed by the articles or ~~by-laws~~: bylaws.

24 C. Unless otherwise provided in the articles, a majority of the board of
25 directors shall be necessary to constitute a quorum for the exercise of any of the
26 powers conferred by the articles or this Subpart upon the board.

27 §201. Officers and ~~agents~~ directors

28 A. The board of directors shall elect a president, a vice-president, a secretary,
29 and a treasurer, all of whom, except the treasurer, shall be members of the board of

1 directors. Any two of ~~the above named~~ these officers may be combined in one person
2 and should the office of treasurer and another one of said officers be combined in one
3 person, said officer need not be a member of the board of directors. The treasurer
4 may be a member of the board.

5 B. The president shall be ~~ex-officio~~ ex officio chairman of the board of
6 directors. He shall preside at all meetings of the said board and at all meetings of the
7 policyholders; and shall perform such other duties and functions as are required or
8 permitted by this Subpart and the provisions of the articles. In the absence of the
9 president, the vice-president shall act in his place and stead.

10 C. The secretary shall record all proceedings of the meetings of the board of
11 directors and policyholders and perform such other duties and functions as are
12 required or permitted by this Subpart and the provisions of the articles.

13 D. The qualifications, terms of office, manner of election, and the powers and
14 duties of the officers may, subject to the provisions of this Subpart, be prescribed by
15 the articles or ~~by-laws.~~ bylaws. No person shall solicit, write, or issue any policy
16 under this Subpart without having first been duly licensed by the commissioner of
17 insurance as ~~an agent.~~ a producer.

18 §202. Policyholders' meetings

19 A. Meetings of the policyholders shall be held at such times and places as the
20 articles and ~~by-laws~~ bylaws may provide but the articles and ~~by-laws~~ bylaws shall
21 provide for the manner of calling and the notice to be given of special meetings of the
22 policyholders. The articles or ~~by-laws~~ bylaws shall provide that notice of any special
23 meeting of policyholders shall be in writing addressed to each policyholder and
24 deposited in the mails at the location of the office of the corporation with postage paid
25 not less than fifteen days prior to the meeting date.

26 B. In case of family group policies, notice given to the head of the family
27 group covered thereby shall be deemed sufficient notice to all of the members of such
28 group.

1 the association shall be available for inspection by representatives of the office of the
2 commissioner of insurance and the policyholders at all times. The books of an
3 association may be closed not more than thirty days prior to an assessment.

4 * * *

5 §210. Reports and financial statements

6 Every association shall, on or before the first day of March in each year, make
7 and file with the commissioner of insurance a report of its affairs and its operations
8 during the year ending on the ~~31st~~ thirty-first of December immediately preceding.
9 Such report shall be signed by the president or vice-president and the secretary and
10 treasurer and shall contain the following:

11 * * *

12 §211. Expiration of certificate of authority; renewal

13 Every certificate of authority issued by the commissioner of insurance to any
14 association, ~~and agents' licenses issued under this Subpart~~ shall continue in force until
15 the thirty-first day of March, inclusive, next following its issuance, unless the same
16 be sooner revoked, and shall be reinstated each year upon compliance with all of the
17 provisions of this Subpart.

18 §212. Merger and consolidation

19 A. Any two or more associations operating under this Subpart having in the
20 aggregate a number of policyholders of not less than five hundred to each of the
21 constituent associations may merge or become consolidated by complying with the
22 provisions of this Section.

23 B. The boards of directors of the constituent associations shall enter into an
24 agreement by authentic act setting forth the terms, conditions, and the plan of the
25 proposed merger or consolidation and shall submit the same to the commissioner of
26 insurance for his approval. If from an examination made by him or his authorized
27 representative, it shall appear to the commissioner of insurance that the proposed plan
28 is feasible and that the same will not operate injuriously to the policyholders of any
29 of the constituent associations, he shall approve the same and the merger or

1 consolidation shall become effective upon his approval. The commissioner of
2 insurance may, if he deems it advisable, direct that meetings of the policyholders of
3 the constituent associations or any of them be called for the purpose of ratifying or
4 approving the proposed plan.

5 C. In addition to the ~~above~~ other requirements of this Section, any association
6 incorporated or hereinafter incorporated under the provisions of this Subpart; may
7 with the consent of the board of directors and any other association or corporation
8 operating a ~~non-profit~~ nonprofit funeral association other than under the provisions
9 of this Subpart by and with the consent of the officers ~~and/or~~ or board of directors of
10 the other association or corporation, as provided for under the ~~by-laws, bylaws,~~ rules,
11 and regulations of the association or corporation, and upon approval of the
12 commissioner of insurance or his authorized representative, if the plan shall appear
13 to the commissioner of insurance or his authorized representative to be feasible and
14 that the same will not appear to operate injuriously to the policyholders of either
15 association, shall by written contract in authentic form, assume the debts, policies,
16 and obligations of the other association or corporation; and continue to satisfy the
17 terms and conditions of the outstanding policies ~~and/or~~ or contracts under the same
18 rates as provided for in the policies until all policies outstanding have expired,
19 provided that all new policies shall be issued according to the provisions of this
20 Subpart, and by and under the name of the association incorporated under the
21 provisions of this Subpart.

22 §213. Liquidation

23 A. Whenever the board of directors of any association operating under this
24 Subpart shall be desirous of discontinuing the operations of the association, it shall
25 immediately notify the commissioner of insurance and submit a plan for the
26 liquidation of the association. The commissioner of insurance shall cause an
27 examination of the association to be made and if it appears that the association has
28 complied with all the provisions of this Subpart, he shall direct that a meeting of the
29 policyholders be called, at which meeting the proposed plan of liquidation shall be

1 submitted and if approved by the policyholders, shall be carried into effect. At such
 2 meeting, the policyholders shall be permitted, if they elect to do so, to elect a new
 3 board of directors and in lieu of liquidating continue the operation of the association.
 4 Should the policyholders disapprove of the plan of liquidation and fail to reorganize
 5 in such a manner as to continue the operation of the association, the association shall
 6 be liquidated under the direction of the commissioner of insurance as in the case of
 7 associations which have persisted in the violation of the provisions of this Subpart,
 8 the articles, or ~~by-laws~~: bylaws.

9 B. Whenever it appears to the commissioner of insurance that any association
 10 is failing to comply with the provisions of this Subpart or its articles or ~~by-laws~~
 11 bylaws in any respect, he shall immediately notify the officers of the association to
 12 that effect, specifying in what respects it is claimed that the association is failing to
 13 comply and if after such notice the association persists in the violations of the
 14 provisions hereof, the commissioner of insurance shall proceed to apply for
 15 liquidation of the association in accordance with R.S. 22:73, 96, ~~Chapter 9 of this~~
 16 ~~Title and Subpart H of Part III of this Chapter, 2 of this Title:~~ R.S. 22:731 et seq., and
 17 Chapter 9 of this Title, R.S. 22:2001 et seq.

18 §214. Fees payable

19 Every non-profit funeral service association shall pay the following fees:

20 ~~A:~~ (1) To the secretary of state:

21 ~~1:~~ (a) For filing and recording articles, twenty-five cents per one hundred
 22 words.

23 ~~2:~~ (b) For certificate of recordation, one dollar.

24 ~~B:~~ (2) To the commissioner of insurance:

25 ~~1:~~ (a) For each certificate of authority, twenty-five dollars.

26 ~~2:~~ (b) For each examination, not exceeding twenty-five dollars per diem and
 27 expenses for each examiner.

28 ~~3:~~ (c) Each ~~agent's~~ producer's license, two dollars.

29 §215. Exemption from taxation

1 All ~~non-profit~~ nonprofit funeral service associations operating hereunder are
2 declared to be charitable and beneficial institutions and they as well as all of their
3 receipts, funds, reserves, and all of their property, except real estate, used in
4 connection with the operation of their affairs shall be exempted from any and all
5 forms of taxation, except the fees prescribed in R.S. 22:214, by the state or any of its
6 political subdivisions.

7 §216. Penalties

8 A. Any person who shall solicit any application for or issue or cause to be
9 issued any policy or membership certificate of any association within the provisions
10 of this Subpart without a certificate of authority having been procured by such
11 association from the commissioner of insurance or after such certificate has expired
12 or become suspended or revoked, or any person representing himself to be ~~an agent~~
13 a producer without having been duly licensed as ~~hereinabove~~ provided; in this Subpart
14 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more
15 than five hundred dollars or be imprisoned for not more than three months or both at
16 the discretion of the court.

17 B. Any officer, director, or ~~agent~~ producer of any association embraced
18 within the provisions of this Subpart who shall wilfully commit any of the following
19 acts and any officer, director, or producer of any such association who shall wilfully
20 condone or acquiesce in any of these acts shall be deemed guilty of a misdemeanor
21 and upon conviction shall be fined not more than one thousand dollars or be
22 imprisoned for not more than six months or both at the discretion of the court:

23 (1) ~~Solicit or receive~~ Soliciting or receiving any application which does not
24 comply with ~~the first two paragraphs of R.S. 22:196(A) or (B); or,~~

25 (2) ~~Fail~~ Failing to retain the original applications for policies as required by
26 ~~the third paragraph of R.S. 22:196(C); or,~~

27 (3) ~~Issue~~ Issuing any policy which does not comply with R.S. 22:197; ~~or,~~

28 (4) Fail to maintain the reserve fund required by R.S. 22:203; ~~or,~~

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(11) "Mutual insurer" and "mutual life insurer" both mean for purposes of this Subpart a domestic mutual insurer subject to Subpart C of ~~Chapter 2 of this Title~~ this Part, R.S. 22:111 et seq., that is authorized to transact life, or life and accident and health insurance in this state, but does not mean a domestic nonprofit mutual association as described in R.S. 22:124.

* * *

§236.3. Consideration and dividend protections

A. In effecting a conversion of a reorganizing mutual, each eligible member shall be entitled to consideration in an amount equal to his or its equitable share of the value of the reorganizing mutual as provided for in the plan of reorganization, as follows:

(1) The consideration to be distributed to eligible members may consist of cash, stock of the reorganized company or its parent corporation, or if appropriate for tax or other reasons, additional life insurance and annuity benefits, any combination of these forms of consideration, or other forms of consideration acceptable to the commissioner. The form or forms of consideration to be distributed to an eligible member may differ according to the class or category of policy owned by the eligible member. The choice of the form or forms of consideration to be distributed to eligible members in accordance with the class or category of policy owned by such members may take into account such factors as the type of policy with respect to which the consideration is being distributed and the amount being distributed with respect to such policies, the country of residence, or tax status of the member or other appropriate factors; however, if the consideration to be distributed to an eligible member will be in a form other than common stock of a publicly traded company, the plan of reorganization shall include provisions for determining, in a reasonable manner, the value of the consideration by means of reference to the per share public market value of the registered common stock of the reorganized company or its parent corporation or another method acceptable to the commissioner.

1 services. The term shall include optional coverage for mental health services for
 2 alcohol or drug abuse. With respect to chiropractic services, such services shall be
 3 provided on a referral basis at the request of the enrollee who presents a condition of
 4 an orthopedic or neurological nature necessitating referral, the treatment for which
 5 falls within the scope of a licensed chiropractor. ~~Effective January 1, 2004, the~~ The
 6 term shall also include coverage for low protein food products as provided in R.S.
 7 22:246.

* * *

9 (6) "Health care services" means any services rendered by providers which
 10 include but are not limited to medical and surgical care; psychological, optometric,
 11 optic, chiropractic, podiatric, nursing, and pharmaceutical services; health education,
 12 rehabilitative, and home health services; physical therapy; inpatient and outpatient
 13 hospital services; dietary and nutritional services; laboratory and ambulance services;
 14 and any other services for the purpose of preventing, alleviating, curing, or healing
 15 human illness, injury, or physical disability. Health care services shall also mean
 16 dental care, limited to oral and maxillofacial surgery as performed by board qualified
 17 oral and maxillofacial surgeons. ~~Effective January 1, 1992, the~~ The term shall also
 18 include an annual Pap test for cervical cancer and minimum mammography
 19 examination as defined in R.S. 22:1028. ~~Effective January 1, 2004, the term shall~~
 20 ~~also include~~ and coverage for low protein food products as provided in R.S. 22:246.

21 (7) "Health maintenance organization" means any corporation organized and
 22 domiciled in this state which undertakes to provide or arrange for the provision of
 23 basic health care services to enrollees in return for a prepaid charge. The health
 24 maintenance organization may also provide or arrange for the provision of other
 25 health care services to enrollees on a prepayment or other financial basis. A health
 26 maintenance organization is deemed to be an insurer for the purposes of ~~R.S. 22:1022~~
 27 ~~and 1023~~; R.S. 22:73, 96, ~~Chapter 9 of this Title and Subpart H of Part III of Chapter~~
 28 ~~2 of this Title, R.S. 22:691 through 713, and~~ Subpart H of Part III of this Chapter,
 29 R.S. 22:731 et seq., R.S. 22:1022 and 1023, Part II of Chapter 7 of this Title,

1 ~~comprised of~~ R.S. 22:1921 through 1929, and Chapter 9 of this Title, R.S. 22:2001
2 et seq. A health maintenance organization shall not be considered an insurer for any
3 other purpose.

4 * * *

5 §243. Incorporation

6 * * *

7 D.(1) After the payment of all fees owed to the Department of Insurance, the
8 articles showing the approval of the commissioner shall be filed in the office of the
9 secretary of state by the commissioner together with an initial report, as prescribed
10 by R.S. 12:101. If the first directors are not named in the articles of incorporation and
11 the initial report, a supplemental report, setting forth their names and addresses, and
12 signed by each incorporator or by any shareholder, shall be filed with the secretary
13 of state and filed for record as provided by ~~Subsection (D)~~ Paragraph (4) of this
14 ~~Section~~ Subsection as soon as they have been selected.

15 * * *

16 E.

17 * * *

18 (3) The provisions of ~~Subsections (E)~~ Paragraphs (1) and (2) of this ~~Section~~
19 Subsection shall not be applicable when an incorporated health maintenance
20 organization changes either its registered agent or address, or both. In any such
21 change, the incorporated health maintenance organization shall provide the
22 commissioner with the board resolution and notice; and shall follow the requirements
23 of Part X of Chapter 1, Title 12 of the Louisiana Revised Statutes of 1950.

24 * * *

25 §247. Reimbursement for chiropractic services

26 Notwithstanding any provision of any policy or contract of insurance or health
27 benefits issued by a health maintenance organization, ~~after the effective date of this~~
28 ~~Section~~, whenever such policy or contract provides for payment or reimbursement for
29 any service, and such service may be legally performed by a chiropractor licensed in

1 this state, such payment or reimbursement under such policy or contract shall not be
2 denied when such service is rendered by a person so licensed. Terminology in such
3 policy or contract deemed discriminatory against any such person or method of
4 practice shall be void.

5 * * *

6 §249. ~~Powers~~ Authority of health maintenance organizations

7 Subject to the provisions of R.S. 22:260(E) and regulations adopted and
8 approved by the commissioner, the ~~powers~~ authority of a health maintenance
9 organization ~~include~~ includes but ~~are~~ is not limited to the following:

10 (1) The ~~power~~ authority to purchase, lease, construct, renovate, operate, or
11 maintain hospitals, medical facilities, nursing care and intermediate care facilities,
12 their ancillary equipment, and such property, including the stock of corporations, as
13 may reasonably be required for its administrative offices or for such other purposes
14 as may be necessary in the transaction of the business of the health maintenance
15 organization.

16 (2) The ~~power~~ authority to make secured or guaranteed loans to providers
17 under contract with the health maintenance organization in furtherance of its
18 operations or the making of the loans to a corporation or corporations under its control
19 for the purpose of acquiring or constructing medical facilities, hospitals, nursing care
20 and intermediate care facilities, and other institutions of like nature providing health
21 care services to enrollees, or in furtherance of a program providing health care
22 services to its enrollees.

23 (3) The ~~power~~ authority to furnish health care services through providers
24 which are under contract with or employed by the health maintenance organization.

25 (4) The ~~power~~ authority to contract with any person for the performance on
26 its behalf of certain functions such as marketing, enrollment, and administration.

27 (5) The ~~power~~ authority to contract with an insurance company licensed to
28 do business in this state or with a hospital or medical service corporation authorized
29 to do business in this state, for the provision of insurance, indemnity, or

1 reimbursement against the cost of health care services provided by the health
2 maintenance organization.

3 (6) The ~~power~~ authority to offer other health care services in addition to basic
4 health care services.

5 (7) The ~~power~~ authority to coordinate benefits, subrogate to third party
6 funds,* and engage in the assignment of claims to the extent that insurers are
7 permitted to do so by the laws of this state.

8 (8) The ~~power~~ authority to issue point of service policies that have been
9 approved by the commissioner to groups and individuals. The indemnity exposure
10 of such policies shall conform to the same solvency requirements for claim reserves
11 that are required of accident and health insurance companies licensed to operate in
12 this state.

13 §250. Fiduciary duties of certain persons; bond required; encumbering assets

14 * * *

15 B. A health maintenance organization shall maintain in force a fidelity bond
16 on employees and officers in an amount not less than one hundred thousand dollars
17 or insurance in a form satisfactory to the commissioner in lieu of such bond. All such
18 bonds or insurance shall be written with at least a one-year discovery period and if
19 written with less than a three-year discovery period shall contain a provision that no
20 cancellation or termination of the bond or insurance, whether by or at the request of
21 the insured or by the underwriter, shall take effect prior to the expiration of ninety
22 days after written notice of such cancellation or termination has been filed with the
23 commissioner, unless an earlier date of such cancellation or termination is approved
24 by the commissioner.

25 * * *

26 §252. Annual report

27 * * *

28 C. In addition to Subsection A of this Section, the following reports shall also
29 be filed with the commissioner:

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(3) A ~~CPA-audited~~ CPA-audited report as required by R.S. 22:674 and ~~Regulation 50~~ any applicable regulation issued by the Department of Insurance.

(4) Holding Company Act filings as required under Subpart G of Part III of ~~this Chapter, 2 of Title 22 of the Louisiana Revised Statutes of 1950.~~ R.S. 22:691 et seq.

* * *

§254. Protection against insolvency

* * *

C. Each health maintenance organization shall establish prior to the issuance of any certificate of authority, and shall maintain as long as it does business in Louisiana as a health maintenance organization, the following capital and surplus requirements:

(1) For each health maintenance organization which, by July 1, 1995, has not filed its application for a certificate of authority with the commissioner as required by law, a minimum of the greater of three million dollars or the amounts required by Subpart D of Part III of this Chapter, R.S. 22:631 et seq. The million dollar deposit required pursuant to ~~R.S. 22:2010(A)~~ Subsection A of this Section shall apply as a part of this minimum requirement.

* * *

§255. Regulation of ~~agents~~ producers

The commissioner may, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of ~~agents~~ producers. ~~An agent~~ A producer means a person licensed as a life and health insurance ~~agent~~ producer in the state of Louisiana who is appointed or employed by a health maintenance organization to engage in solicitation of membership in such organization. It shall not include a person enrolling members on behalf of an employer, union, or other organization to whom a master group contract has been issued.

1 §256. Examination of health maintenance organization and other parties

2 A. The commissioner or a member of his staff may make an examination of
3 the affairs of any health maintenance organization as often as it is reasonably
4 necessary for the protection of the interest of the people of this state, but not less
5 frequently than once every ~~three~~ five years.

6 * * *

7 §260. Statutory construction; relationship to other laws

8 A. Except as otherwise provided in this Subpart and in R.S. 22:1037,
9 provisions of the insurance law and provisions of Subpart C of this Part, ~~of this~~
10 ~~Chapter R.S. 22:111 et seq.~~, shall not be applicable to any health maintenance
11 organization granted a certificate of authority under this Subpart. This provision shall
12 not apply to an insurer or an entity licensed under the provisions of Subpart C of this
13 ~~Part of this Chapter~~ except with respect to its health maintenance organization
14 activities authorized and regulated pursuant to this Subpart.

15 * * *

16 §262. Technical advice, advisors, and other technical services

17 * * *

18 C. ~~No later than December 31, 1997, every~~ Every health maintenance
19 organization which has been licensed under this ~~Chapter~~ Subpart shall submit to the
20 commissioner a plan for accreditation under an organization or entity recognized by
21 the commissioner. The commissioner shall be authorized to make an inspection no
22 less frequently than once every three years of each health maintenance organization,
23 which has not been accredited by an organization or entity recognized by the
24 commissioner, to determine whether it is adhering to the minimum standards for
25 utilization review and grievances. The commissioner shall be authorized to establish
26 agreements with the secretary for review of such health maintenance organization's
27 contractual providers and the quality of services it offers and provides to its enrollees.
28 Within thirty days after inspection, the secretary shall transmit a report of such
29 inspection to the governor with a copy thereof transmitted to the commissioner. The

1 costs of all such inspections shall be assessed as regulatory costs by the
2 commissioner.

3 * * *

4 §266. Medical necessity review

5 Every health maintenance organization shall assure full compliance with
6 Subpart F of Part III of Chapter 4 of this Title, R.S.22:1121 et seq., in establishing
7 procedures for continuous review of quality of care, performance of providers,
8 utilization of health services, facilities, and costs. The medical necessity review
9 requirements and administrative treatment guidelines of the health maintenance
10 organization shall not fall below the appropriate standard of care and shall not
11 impinge upon the independent medical judgment of the treating health care provider.
12 Nothing in this Section shall be construed to prevent a health maintenance
13 organization from conducting a medical necessity review and quality assurance
14 program.

15 * * *

16 §270. Taxes and tax base

17 A. In lieu of the state income tax and the corporate franchise tax levied in
18 Title 47 of the Louisiana Revised Statutes of 1950, every health maintenance
19 organization authorized and certified to engage in the business of issuing contracts or
20 other evidences or similar forms of coverage to enrollees for health care services or
21 prepaid medical services in this state, including Louisiana partnerships authorized
22 under R.S. 22:244(B), shall pay an annual license tax ~~for the year 1986, and each~~
23 ~~subsequent year~~, on the gross amount of its receipts from contracts and other
24 evidences of coverage at the same rate as the license tax on life insurance companies
25 provided in R.S. 22:842 and R.S. 22:844.

26 * * *

27 §272. Notice required for certain prepaid charge rate increases, cancellation or
28 nonrenewal of service agreements; other requirements

29 * * *

1 F. Every health maintenance organization authorized under this Subpart shall
2 also be subject to the requirements of Subpart B of Part II of Chapter 6 of this Title,
3 R.S. 22:1831 et seq.

4 * * *

5 §290. Organization

6 A domestic society organized ~~on or after the effective date of~~ pursuant to this
7 Subpart shall be formed as follows:

8 * * *

9 (6) Any incorporated society authorized to transact business in this state ~~at the~~
10 ~~time this Subpart becomes effective~~ shall not be required to reincorporate. Any
11 voluntary fraternal benefit association ~~existing on such date~~ may incorporate
12 hereunder.

13 * * *

14 §310. Injunction; liquidation; receivership of domestic society

15 A.

16 * * *

17 (2) After such notice, the society shall have a thirty-day period in which to
18 comply with the commissioner's request for correction. If the society fails to comply,
19 the commissioner shall notify the society of such findings of noncompliance and
20 require the society to show cause why it should not be enjoined from carrying on any
21 business until the violation complained of has been corrected, or why an action should
22 not be commenced against the society under R.S. 22:73 and 96, Subpart H of Part III
23 of this Chapter, ~~2 R.S. 22:731 et seq.~~, and Chapter 9 of this Title, R.S. 22:2001 et
24 seq.

25 B. If on such date the society does not present good and sufficient reasons
26 why it should not be so enjoined or why such action should not be commenced, the
27 commissioner of insurance may proceed in accordance with R.S. 22:73 and 96,
28 Subpart H of Part III of this Chapter, ~~2~~ and Chapter 9 of this Title for the
29 rehabilitation or liquidation of such society.

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D. The provisions of this Section relating to hearing by the commissioner of insurance and any action by the commissioner of insurance under R.S. 22:73 and 96, Subpart H of Part III of this Chapter, ~~2~~ and Chapter 9 of this Title shall be applicable to a society which shall voluntarily determine to discontinue business.

* * *

§313. Unfair methods of competition; unfair and deceptive acts and practices

Every society authorized to do business in this state shall be subject to the provisions of Part IV of Chapter 7 of this Title, R.S. 22:1961 et seq., relating to unfair methods of competition and unfair or deceptive acts or practices; however, nothing in such provisions shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or as applying to or affecting the offering of benefits exclusively to members of persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

* * *

§331. Foreign or alien insurers may be admitted

A. Any foreign or alien insurer, including reciprocals, Lloyds, and fraternal, may be admitted to transact business in this state, upon complying with the provisions of this Subpart, and all other applicable provisions of this Code, to transact the kind or kinds of business which a similar domestic insurer may legally transact under this Code, except ~~non-profit~~ nonprofit funeral insurance, and life, health and accident insurers on the ~~co-operative~~ cooperative or assessment plan, provided insurers admitted to transact the kinds of business provided in Subparts D and E of this Part, R.S. 22:131 et seq. and R.S. 22:141 et seq., shall meet the requirements for life insurers under R.S. 22:81 through 95 and Subpart C of this Part, R.S. 22:111 et seq.

B. Any foreign insurance company which has been licensed to do the business of life insurance in this state continuously during a period of ten years next preceding

1 October 1, 1948, may continue to be licensed to do the kind or kinds of insurance
2 business which it was authorized to do immediately prior to October 1, 1948.

3 §332. Application for certificate of authority

4 A. A foreign or alien insurer in order to procure a certificate of authority to
5 transact business in this state shall prepare and deliver to the commissioner of
6 insurance:

7 * * *

8 (4) A copy of its ~~by-laws~~, bylaws, and, if a fraternal society, a copy of its
9 constitution, certified by its proper officers.

10 * * *

11 §333. Conditions of issuance of certificate of authority

12 * * *

13 B. Before issuance of the certificate of authority to a foreign or alien insurer,
14 such insurer shall make a deposit as required by Part II of Chapter 3 of this Title; R.S.
15 22:801 et seq.

16 C. Before issuance of the certificate of authority to an alien insurer, such
17 insurer shall make a deposit as required by Part II of Chapter 3 of this Title and must
18 maintain within the United States assets in amount not less than its outstanding
19 liabilities arising out of its insurance transactions in the United States; ~~and which~~
20 Such assets shall be in addition to the larger of the following sums:

21 (1) The largest amount of deposit required by this Code to be made in this
22 state by any type of domestic insurer transacting like kinds of insurance; ~~or~~ .

23 (2) Two hundred thousand dollars.

24 (a) The trust deposit shall be for the security of all policyholders or
25 policyholders and obligees of the insurer in the United States. It shall not be subject
26 to diminution below the amount currently determined in accordance with this
27 Subsection so long as the insurer has outstanding any liabilities arising out of its
28 business transacted in the United States.

1 (b) The trust deposit shall be maintained with public depositories or trust
2 institutions within the United States approved by the commissioner of insurance.

3 * * *

4 §337. Refusal, suspension, and revocation of certificate of authority

5 A. The commissioner of insurance may refuse, suspend, or revoke the
6 certificate of authority of a foreign or alien insurer whenever he shall find that such
7 insurer:

8 * * *

9 (18) Fails to require its producers ~~or agents~~ to maintain licensure as producers
10 ~~or agents~~ as provided by law or by regulation of the Department of Insurance.

11 * * *

12 B. Except for the grounds stated in Paragraphs ~~1, 11, 13 and 14~~ (1), (11), (13),
13 and (14) of Subsection A of this Section, the commissioner of insurance shall not
14 revoke or suspend the certificate of authority of a foreign or alien insurer until he has
15 given the insurer at least thirty days notice of the proposed revocation or suspension
16 and of the grounds therefor and has afforded the insurer an opportunity for a hearing.

17 * * *

18 §340. Procedure following merger or consolidation

19 A. Whenever a foreign or alien insurer authorized to transact business in this
20 state shall be the surviving insurer of a statutory merger permitted by the laws of the
21 state or country under which it is organized, and such merger is not subject to the
22 provisions of R.S. 22:73 and 96, ~~and~~ Subpart H of Part III of this Chapter, 2 R.S.
23 22:731 et seq., and Chapter 9 of this Title, R.S. 22:2001 et seq., it shall forthwith file
24 with the commissioner of insurance:

25 * * *

26 §347. Disposition of tax money

27 * * *

28 D.(1) All money received under the provisions of R.S. 22:342 through 349
29 by the treasurer of the governing authority of the parish shall, within thirty days from

1 the time it is received, be paid over by the treasurer to the fiscal representative of the
2 regularly constituted fire department of the municipality or district or active volunteer
3 fire department, as the case may be. If any of said funds are not so distributed either
4 by mutual consent or without consent of the regularly paid fire department of the
5 municipality or district or active volunteer fire department certified by the parish
6 governing authority, such funds shall be invested in an interest-bearing account and
7 any accrued interest on the investment of funds shall be credited and distributed per
8 capita to the regularly paid fire department of the municipality or district or active
9 volunteer fire department, as provided by ~~R.S. 22:347.~~ this Section.

10 §361. Definitions

11 As used in this Subpart:

12 * * *

13 (4) "Person" means any individual, ~~person, firm, company, corporation,~~
14 ~~partnership or association~~ company, insurer, association, organization, reciprocal or
15 inter-insurance exchange, partnership, business, trust, limited liability company, or
16 corporation which provides vehicle mechanical breakdown insurance in this state.

17 (5) "Reinsurer" ~~as used in this Subpart,~~ means a person licensed under this
18 Subpart engaged in the reinsuring of mechanical reimbursement insurance, residual
19 value insurance, or credit disability insurance policies, or any combination of kinds
20 of insurance.

21 * * *

22 §364. Qualifications

23 The commissioner shall not ~~issue~~ a license as a vehicle mechanical breakdown
24 insurer unless all of the following conditions are met:

25 (1) ~~If the~~ The applicant ~~is a corporation,~~ it shall be a solvent, ~~corporation,~~
26 ~~incorporated under the laws of Louisiana, or another state, district, territory or~~
27 ~~possession of the United States of America.~~

28 * * *

29 §365. Deposit or surety; required

1 provisions of the Administrative Procedure Act contained in Title 49 of the Louisiana
2 Revised Statutes of 1950. Causes for revocation or suspension shall be the following:

3 * * *

4 (2) If, in the opinion of the ~~commission~~, commissioner, the reserve for losses
5 maintained by the insurer are insufficient to cover future losses.

6 * * *

7 (4) If the insurer refuses to allow an inspection as provided by in R.S. 22:371-
8 370.

9 * * *

10 §371. Cease and desist order; penalty for violation

11 A. If a hearing is held pursuant to the provisions of the Administrative
12 Procedure Act in Title 49 of the Louisiana Revised Statutes of 1950 and if the
13 commissioner should determine that the provisions of this Subpart have been violated,
14 the commissioner shall, in addition to the authority to revoke or suspend a license as
15 provided in R.S. 22:~~370~~, 369, have the authority to issue an order requiring such
16 person or insurer violating the provisions of this Subpart, to cease and desist from
17 such method, act, or practice. A written record shall be made of the commissioner's
18 findings.

19 * * *

20 §381. Definitions

21 As used in this Subpart:

22 * * *

23 (3) "Person" means any individual, ~~person, firm, company, corporation,~~
24 ~~partnership, or association~~ company, insurer, association, organization, reciprocal or
25 inter-insurance exchange, partnership, business, trust, limited liability company, or
26 corporation which provides property residual value insurance in this state.

27 * * *

28 §384. Qualifications

1 commissioner of insurance. Each submission shall be accompanied by the fees
2 provided for in R.S. 22:~~1078(B)(26)~~: 821.

3 * * *

4 §393. Scope and limitations

5 A. Nothing in this Subpart shall alter or diminish any right, privilege, or
6 authority granted to any insurance company under any other provisions of this Title,
7 ~~22 of the Louisiana Revised Statutes of 1950~~.

8 * * *

9 §409. Board of trustees; terms; removal; meetings; salary

10 ~~(A)~~ A. Every trust fund shall be governed by a board of no fewer than five
11 trustees. The initial trustees need not be appointed or elected by the beneficiaries of
12 the trust fund. During the second year following the creation of an authorized trust
13 fund, at least one-fourth of all its trustees in office shall have been elected or
14 appointed by the beneficiaries. After the end of the second year following the
15 creation of an authorized trust fund, a majority of all trustees in office shall have been
16 elected or appointed by the beneficiaries.

17 ~~(B)~~ B. All trustees serving during the first two years following the creation of
18 an authorized trust fund shall be elected or appointed for one-year terms. All trustees
19 serving thereafter shall be elected or appointed for two-year terms, provided that the
20 trustees may be elected or appointed for one-year terms to the extent necessary in
21 order to create staggered terms.

22 ~~(C)~~ C. Any trustee may be removed at any time, with or without cause, by a
23 majority vote of the beneficiaries.

24 ~~(D)~~ D. The board of trustees shall meet ~~no fewer than~~ at least four times each
25 year.

26 ~~(E)~~ E. No trustee shall be paid a salary or receive other compensation for
27 service as a trustee, except that the bylaws or plan of operation may provide for
28 reimbursement for actual expenses incurred on behalf of the trust fund and for the
29 payment of a reasonable per diem amount for attendance at meetings of the board.

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§413. Contracts with risk ~~managements~~ management service providers

Authorized trust funds may enter into contracts with risk management service providers, actuarial consultants, or other vendors as are necessary to ensure the effective and efficient operation of such trust ~~fund~~. funds. Fees paid to vendors for services provided shall not be excessive.

* * *

§432. Surplus ~~line~~ lines insurance from unauthorized insurers

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated as "surplus lines", may be procured from approved unauthorized insurers provided that the insurance is procured through a licensed surplus ~~line~~ lines broker.

§433. Endorsement of contract

A. Every insurance contract procured and delivered as a surplus ~~line~~ lines coverage pursuant to this Subpart shall have stamped or printed upon it and be signed by the surplus lines broker who procured it, in bold type and the face of which shall not be less than ten-point type, the following:

NOTICE

~~This insurance policy is delivered as a surplus line coverage under the Insurance Code of the State of Louisiana.~~

~~In the event of insolvency of the company issuing this contract, the policyholder or claimant is not covered by the Louisiana Insurance Guaranty Association which guarantees only specific policies issued by an insurance company authorized to do business in Louisiana.~~

~~This surplus lines policy has been procured by the following licensed Louisiana surplus lines broker:~~

~~Signature of Licensed Louisiana Surplus Lines Broker~~

~~or Authorized Representative~~

1 Printed Name of Licensed Louisiana Surplus Lines Broker

2 **NOTICE**

3 **This insurance policy is delivered as surplus lines coverage under the**
4 **Insurance Code of the State of Louisiana.**

5 **In the event of insolvency of the company issuing this contract, the**
6 **policyholder or claimant is not covered by the Louisiana Insurance Guaranty**
7 **Association which guarantees only specific policies issued by an insurance**
8 **company authorized to do business in Louisiana.**

9 **This surplus lines policy has been procured by the following licensed**
10 **Louisiana surplus lines broker:**

11 **Signature of Licensed Louisiana Surplus Lines Broker**
12 **or Authorized Representative**

13 **Printed Name of Licensed Louisiana Surplus Lines Broker**

14 * * *

15 §434. Surplus ~~line~~ lines insurance valid

16 Insurance contracts procured as surplus ~~line~~ lines coverage from approved
17 unauthorized insurers in accordance with this Subpart shall be fully valid and
18 enforceable as to all parties, and shall be given recognition in all matters and respects
19 to the same effect as like contracts issued by authorized insurers.

20 §435. Surplus lines in solvent insurers; capital and surplus requirements; deposits
21 and bond requirements

22 * * *

23 B. The surplus lines broker shall not so insure with any insurer unless the
24 insurer has met the requirements of R.S. 22:436, unless otherwise provided by law,
25 has established satisfactory evidence of good repute and financial integrity, and has
26 done the following:

27 (1) If it is a foreign insurer:

1 (a) Has capital and surplus of not less than fifteen million dollars exclusive
2 of either surplus debentures or subordinated notes if a stock insurer, or surplus of not
3 less than fifteen million dollars exclusive of either surplus debentures or subordinated
4 notes if any other type insurer, and has on deposit with the commissioner of insurance
5 a safekeeping or trust receipt from a bank or a savings and loan association doing
6 business within Louisiana, indicating that one hundred thousand dollars in money, or
7 approved bonds of the United States government, the state of Louisiana, or any
8 political subdivision thereof, or in lieu of such deposit has delivered to the
9 commissioner of insurance a bond in the amount of one hundred thousand dollars ~~of~~
10 issued by an authorized surety company doing business in this state and approved by
11 the commissioner of insurance.

12 (b) Such deposit or surety bond shall be conditioned for the prompt payment
13 of all claims arising and accruing to any person by virtue of any policy issued by any
14 such unauthorized insurer ~~upon the life or person of any citizen of the state of~~
15 ~~Louisiana, or~~ upon any property or other risk situated in this state, and to be held
16 subject to any claims, liens or judgments that may be judicially obtained against any
17 such company in the courts of this state, or arising from any contract of insurance, or
18 indemnity, or fidelity, or guaranty entered into in this state, and shall be liable to
19 seizure and sale at the instance of any judgment creditor of such insurer, under
20 judgment obtained in any of the courts of this state or in any of the federal courts of
21 this state.

* * *

23 D. In addition to any other statements or reports required by this ~~Chapter,~~
24 Subpart, the commissioner of insurance may request from any ~~licensee surplus lines~~
25 broker full and complete information respecting the financial stability, reputation and
26 integrity of any unauthorized insurer with whom any such ~~licensee surplus lines~~
27 broker has dealt, or proposes to deal, in the transaction of insurance business. The
28 ~~licensee surplus lines broker~~ shall promptly furnish in written or printed form so much
29 of the information requested as he can produce. The commissioner of insurance, if

1 he believes it to be in the public interest, may order such ~~licensee~~ surplus lines broker
2 in writing to place no further insurance business on Louisiana risks through such
3 unauthorized company.

4 * * *

5 H.(1) Notwithstanding any law to the contrary, no person shall act in this state
6 as ~~agent~~ producer for or broker to any unauthorized insurer which has not been
7 approved by the Department of Insurance in accordance with this Section and R.S.
8 22:436, unless the following criteria are met:

9 * * *

10 (2) The commissioner by regulation or directive, may require that the insured
11 meet minimum financial requirements and may require certification from the ~~agent~~
12 producer or broker that the insurer meets the financial and any other requirements
13 promulgated by the Department of Insurance for insurance coverage by an
14 unauthorized insurer which has not been approved by the Department of Insurance
15 under this Section and R.S. 22:436.

16 §436. Approved unauthorized insurers; list; requirements; removal

17 A. No surplus ~~line~~ lines broker shall place surplus ~~line~~ lines insurance with
18 an insurer who is not on the list of approved unauthorized insurers as compiled and
19 maintained by the commissioner of insurance.

20 * * *

21 D. The commissioner shall remove a foreign insurer from the list of approved
22 unauthorized insurers if:

23 * * *

24 (2) It is determined that the continued placement of surplus ~~line~~ lines
25 insurance with the insurer would not be in the best interest of the policyholders or the
26 citizens of Louisiana.

27 * * *

28 G. Upon removing an insurer from the list of approved unauthorized insurers,
29 the commissioner shall notify the insurer and all licensed surplus lines brokers of such

1 action in writing. Such notice to licensed surplus ~~fire~~ lines brokers may, at the option
2 of the surplus lines broker, be sent by the commissioner via electronic mail.

3 * * *

4 §437. Records of surplus ~~fire~~ lines broker

5 A. Each licensed surplus ~~fire~~ lines broker shall keep a full and true record of
6 each surplus line contract, procured by him including a copy of the daily report, if
7 any, showing such of the following items as may be applicable:

- 8 (1) Amount of the insurance;₂
- 9 (2) Gross premiums charged;₂
- 10 (3) Return premium paid, if any;₂
- 11 (4) Rate of premium charged upon the several items of property;₂
- 12 (5) Effective date of the contract, and the terms thereof;₂
- 13 (6) Name and address of the insurer;₂
- 14 (7) Name and address of the insured;₂
- 15 (8) Brief general description of property insured and where located;₂
- 16 (9) Other information as may be required by the commissioner of insurance,
17 including but not limited to the address of the worker's compensation claims office
18 established by the insurer pursuant to R.S. 23:1161.1 and the name and address of the
19 person authorized by the insurer to settle worker's compensation claims through such
20 office or of the licensed claims adjuster retained by the insurer.

21 B. The record shall at all times be open to examination by the commissioner
22 of insurance and whenever an examination shall be made by him of a surplus ~~fire~~
23 lines broker, such examination shall be in compliance with and pursuant to the
24 provisions of Chapter 8 of this Title, R.S. 22:1981 et seq., insofar as the provisions
25 of that Chapter are applicable to such examination.

26 §438. Proof of uninsurability; affidavit

27 A. Any licensed surplus lines broker that procures a personal lines policy with
28 an approved unauthorized insurer shall obtain from the duly licensed submitting ~~agent~~
29 producer or broker within thirty days of binding an affidavit on a standardized form

1 promulgated by the commissioner of insurance which shall be maintained by the
 2 licensed surplus lines broker that attests to the diligent efforts of the ~~agent~~ producer
 3 or broker to place insurance coverage with admitted insurers and the results thereof.
 4 The affidavit shall affirm that the insured applicant for insurance was expressly
 5 advised prior to placement of insurance that the surplus lines insurer with whom the
 6 insurance is being placed is an approved unauthorized insurer, and that in the event
 7 of insolvency of the insurer, losses shall not be paid by the state insurance guaranty
 8 fund, and that the coverage is being procured through a duly licensed Louisiana
 9 surplus lines broker.

* * *

11 §439. Tax on surplus lines

12 * * *

13 B. Every person placing insurance with an unauthorized insurer without going
 14 through a licensed Louisiana ~~agent~~ producer or surplus lines broker, except as
 15 provided in R.S. 22:432, shall remit to the commissioner of insurance a tax of five
 16 percent of the gross premium, such tax to be paid at the same time and under the same
 17 conditions as that levied on surplus lines brokers under the provisions of Subsection
 18 A of this Section. Such tax when collected by the commissioner of insurance shall
 19 be paid to the state treasurer and be credited to the general fund.

20 C. If a surplus ~~line~~ lines policy covers risks or exposures only partially in this
 21 State the tax so payable shall be computed upon the proportion of the premium which
 22 is properly allocable to the risks or exposures located in this State.

23 * * *

24 §440. Penalty for failure to file statement or remit tax

25 In case of any failure of a surplus ~~line~~ lines broker to make a report or to make
 26 payment of the tax provided by R.S. 22:439, ten ~~percentum~~ percent shall be added to
 27 the amount of tax due, and paid to the commissioner of insurance along with the tax
 28 due, unless evidence to his satisfaction is submitted to him to show that such failure
 29 was due to some unforeseen or unavoidable reason other than mere neglect. If the

1 delinquency be for more than thirty days after the due date of the report or after the
2 due date for the payment of taxes as provided by R.S. 22:439, neglect will be
3 presumed and the ten ~~percentum~~ percent shall be added without any discretion on the
4 part of the commissioner of insurance. After the lapse of thirty days, until the report
5 is filed and the delinquent tax paid, the commissioner of insurance may revoke the
6 license of the delinquent surplus ~~line~~ lines broker to do business in this state. Any
7 fine collected by the commissioner of insurance hereunder shall be paid to the state
8 treasurer and credited to the general fund.

9 §441. Suspension or revocation of licenses; surplus lines broker; fines

10 A. The commissioner of insurance shall revoke any surplus lines broker's
11 license:

12 * * *

13 (3) For closing of the surplus ~~line~~ lines broker's office for a period of more
14 than thirty calendar days, exclusive of legal holidays, Saturdays, and Sundays, unless
15 permission is granted by the commissioner.

16 * * *

17 B. The commissioner of insurance may deny, suspend, revoke, or refuse to
18 renew or reinstate any such license whenever he deems such denial, suspension,
19 revocation, or refusal to renew or reinstate to be for the best interest of the people of
20 this state. The ~~agent's or~~ producer's license may also be denied, suspended, revoked,
21 or refused renewal or reinstatement whenever there is a denial, suspension,
22 revocation, or refusal to renew or reinstate a surplus ~~line~~ lines broker's license.

23 C. The procedures provided by this Code for the denial, suspension,
24 revocation, or refusal to renew or reinstate ~~an agent's or a~~ producer's license shall be
25 applicable to denial, suspension, revocation, or refusal to renew or reinstate a surplus
26 line broker's license. The procedures provided for by this Code for the levying of
27 fines against ~~an agent or a~~ producer shall be applicable to the levying of fines against
28 a surplus line broker.

1 D. No surplus ~~line~~ lines broker whose license has been so revoked,
2 suspended, or refused renewal or reinstatement shall again be so licensed within one
3 year thereafter, nor until any fines or delinquent taxes owing by him have been paid.

4 §442. Legal process against ~~surplus line~~ unauthorized insurer

5 A. An unauthorized insurer shall be sued, upon any cause of action arising in
6 this state under any contract issued by it as a surplus ~~line~~ lines contract, pursuant to
7 this Subpart, in the district court of the parish in which the cause of action arose.

8 * * *

9 §443. Exemptions

10 A. The provisions of R.S. 22:432 through 442, 444, and 1910 controlling the
11 placing of insurance with unauthorized insurers shall not apply to reinsurance or to
12 the following insurances when so placed by licensed surplus lines brokers of this
13 state, except that a tax on the portion of the premiums received from ocean marine
14 and foreign trade coverages which is properly allocable to the risks or exposures
15 located in this state during the preceding calendar quarter shall be due on the dates
16 and in a manner as provided in R.S. 22:439 at the rate of five percent, such tax when
17 collected by the commissioner of insurance shall be paid to the state treasurer and to
18 be credited to the state general fund, and such licensed surplus lines broker placing
19 ocean marine insurance shall be subject to the provisions of R.S. 22:435,
20 notwithstanding the provisions of R.S. 22:1902, 1903, and 1906, and must show on
21 any document issued by ~~and/or~~ or delivered by them evidencing such insurance, all
22 of the insurers and must clearly stamp on any such documents that on the demand of
23 the ~~assured policyholder~~ or its ~~his~~ representative the latest financial statements of any
24 such insurers are available at its office for inspection as follows:

25 * * *

26 B.(1) Surplus ~~line~~ lines brokers so placing any such insurance with an
27 unauthorized insurer shall keep a full and true record of each such coverage in detail
28 as required of surplus ~~line~~ lines insurance under this Subpart. The record shall be
29 preserved for not less than five years from the effective date of the insurance and shall

1 be kept available in this state and open to the examination of the commissioner of
2 insurance. The surplus ~~line~~ lines broker shall furnish to the commissioner of
3 insurance at his request and on forms as designated and furnished by him a report of
4 all such coverages so placed in a designated calendar year.

5 (2) Notwithstanding anything to the contrary herein contained, the rates for
6 the exempt lines of insurance set out in ~~Subsection Paragraphs~~ Paragraphs (A)(1), (2), (3), and (4)
7 of this Section shall not be regulated.

8 * * *

9 §445. Tontine funds; sales prohibited

10 A. ~~On and after July 29, 1964, the~~ The sale by any individual, company,
11 partnership, corporation, non-profit corporation or insurance company person of
12 tontine funds whereby any part of the principal or interest earned on individual
13 contributions is to be used for the benefit of other contributors is hereby prohibited.

14 B. Nothing herein contained shall in any way be construed as prohibiting the
15 sale of insurance policies approved for use in the ~~State~~ state of Louisiana by the
16 ~~Commissioner~~ commissioner of ~~Insurance~~ insurance.

17 SUBPART P. GROUP ~~SELF-INSURERS~~ SELF-INSURERS

18 §451. Scope of provisions

19 A. This Subpart shall be applicable to and shall regulate self-insurers and self-
20 insurance plans, as defined in this Subpart, which are subject to jurisdiction of the
21 commissioner of insurance under ~~Chapter 1~~ of this Title. This Subpart shall not be
22 applicable to any worker's compensation plan, except as otherwise provided in this
23 Subpart.

24 B. Regulation under this ~~Chapter~~ Subpart shall not be deemed to and shall not
25 make any self-insurer or insurance plan an insurer or insurance policy solely because
26 of such regulation hereunder. Any entity regulated under this Subpart shall not be
27 considered or treated as an insurer or insurance policy solely because of such
28 regulation.

29 * * *

1 §453. Certificate of authority

2 A. It is unlawful for any self-insurer to transact business or to issue or provide
3 health care benefits under or pursuant to a self-insurance plan in this state without a
4 certificate of authority issued by the commissioner of insurance. Any self-insurer
5 which transacts business in this state without the certificate of authority required by
6 this Subpart shall be considered an unauthorized insurer within the meaning of Subpart
7 O of ~~this Part, I of Chapter 2 of this Title~~ R.S. 22:431 et seq., and Part I of Chapter 7
8 of this Title, R.S. 22:1901 et seq., and all remedies and penalties prescribed therein
9 shall apply to such self-insurer.

10 * * *

11 §455. Administrators; license

12 An administrator of a self-insurance plan shall be licensed as a life and health
13 insurance ~~agent producer~~ and shall be subject to all laws and regulations governing
14 life and health insurance ~~agents producers~~ as set forth in R.S. 22:1541 through 1554
15 and 1556 through 1565.

16 §456. ~~Agents; Producers;~~ Producers; appointment

17 A. Any self-insurer who has been issued a certificate of authority under this
18 Subpart may contract with and appoint as its representatives in this state, as its ~~agent~~
19 producer or ~~agents; producers,~~ any person or persons licensed as a life and health
20 agent producer under Chapter 5 of this Title, R.S. 22:1541 et seq. No solicitation of
21 insurance shall be made by any agent producer prior to notification of such self-
22 insurer that its appointment has been recorded by the commissioner of insurance. If
23 the commissioner has not notified the self-insurer of his disapproval of a particular
24 agent producer within thirty days after receipt of the self-insurer's appointment of
25 such ~~agent, producer,~~ the agent producer thereafter may commence solicitation of
26 insurance.

27 B. On or before the first day of March of each year, each self-insurer shall
28 submit to the commissioner of insurance by certified mail an alphabetical list of the
29 licensed ~~agents producers~~ which it wishes to appoint, together with a fee of ten dollars

1 for each such appointment. Any appointment shall remain in full force and effect
2 until the thirtieth day of April following the date of recordation by the commissioner
3 of insurance, unless the license of the appointed ~~agent~~ producer is revoked by the
4 commissioner or until cancelled by the self-insurer upon written notice to the ~~agent~~
5 producer and the commissioner.

6 C. Any self-insurer who violates the provisions of this Section shall be fined
7 the sum of ten dollars for each ~~agent's~~ producer's appointment received after the first
8 day of March of each year.

9 §457. ~~Agents; Producers;~~ acting for unauthorized self-insurer prohibited

10 A. No natural or juridical person shall, within this state, solicit, procure,
11 receive, or forward applications for coverage under any self-insurance plan or issue
12 or deliver policies, certificates, schedules of benefits, or other evidence of such
13 coverage or in any manner secure, assist, or aid in the placing of any such coverage
14 for any person other than himself, directly or indirectly, with any self-insurer not
15 authorized to do business in this state under this Subpart.

16 B. Any such person shall be liable personally for the full amount of any loss
17 sustained under such coverage provided by or through him or it, directly or indirectly,
18 with any self-insurer not authorized to do business in this state, including any taxes
19 which may become due under the laws of this state by reason of such coverage.

20 C. The commissioner may revoke, suspend, or refuse to renew ~~an agent's,~~
21 ~~broker's, or solicitor's~~ a producer's license, or may levy a fine not to exceed two
22 thousand five hundred dollars against ~~an agent, broker, or solicitor~~ a producer who,
23 after notice and hearing, has been found by the commissioner to have violated the
24 provisions of this Section.

25 * * *

26 §460. Disclosures

27 * * *

28 B. Each application for coverage under a self-insurance plan and any and all
29 advertisements or marketing pieces or material disseminated in relation to any self-

1 insured plan shall contain a statement prominently printed thereon or therein in ten-
2 point type that the self-insurance plan for which coverage is being solicited is
3 uninsured.

4 C. Any entity, including but not limited to a production agency or third party
5 or other administrator, that advertises, sells, transacts, or administers coverage for
6 health care services in this state, shall inform any purchaser or prospective purchaser
7 of coverage under a self-insurance plan or person covered under a self-insurance plan
8 of the lack of insurance for the coverage issued or provided or to be issued or
9 provided. Any administrator that advertises or administers coverage for health care
10 services in this state that is provided by a self-insurer shall inform its appointed
11 ~~production agencies and agents~~ producers of the elements of coverage, including the
12 amount of any reinsurance or "stop-loss" insurance in effect.

13 §461. Annual ~~examination;~~ audit; rate review

14 A. Each self-insurer shall cause to be conducted an annual ~~examination~~ audit
15 by a licensed independent certified public accountant of its financial statements
16 reporting the financial condition and results of operations of the self-insurer.

17 * * *

18 F. Financial statements furnished pursuant to this Section shall be ~~examined~~
19 audited by an independent certified public accountant. The ~~examination~~ audit of the
20 self-insurer's financial statements shall be conducted in accordance with generally
21 accepted auditing standards.

22 G. Every self-insurer required to file an audited financial report pursuant to
23 this Subpart shall require the accountant to make available for review by the
24 commissioner, the workpapers prepared in the conduct of his ~~examination;~~ audit. The
25 ~~insurer~~ self-insurer shall require that the accountant retain the audit workpapers for
26 a period of not less than five years after the period reported thereon.

27 H. In the conduct of the aforementioned review by the commissioner,
28 photocopies of pertinent audit workpapers may be made and retained by the
29 department. Such working papers or copies thereof obtained by the commissioner

1 shall be confidential and shall not constitute a public record. The workpapers of a
2 certified public accountant subject to maintenance and ~~examination~~ audit pursuant to
3 this Section shall nonetheless remain the property of the certified public accountant.

4 I. With the commissioner's approval, ~~an insurer~~ a self-insurer may comply
5 with this Subpart by filing the requisite reports which have been prepared in
6 accordance with generally accepted accounting principles, provided that the notes to
7 the financial statements include a reconciliation of differences between net income
8 and capital and surplus on the annual statement filed pursuant to this and comparable
9 totals on the audited financial statements, with a written description of the nature of
10 these differences.

11 * * *

12 §465. Insolvency of plan

13 When the commissioner, after examination or review of the audit statement
14 required under R.S. 22:463, finds that a self-insurance plan is nearing an insolvent
15 condition or is insolvent, he may issue such orders as he deems necessary to
16 rehabilitate the plan, or he may petition a court of competent jurisdiction for an
17 injunction and rehabilitation as provided for in R.S. 22:73 and 96, Subpart H of Part
18 III of this Chapter, 2, R.S. 22:731 et seq., and Chapter 9 of this Title-, R.S. 22:2001
19 et seq.

20 §466. Transaction of ~~business, required filings~~ business

21 ~~A. Each self-insurer doing business in this state on September 3, 1984, shall~~
22 ~~by January 1, 1985, file with the commissioner a complete copy of its plan including~~
23 ~~eligibility requirements, employee contributions, benefits provided, limitations on and~~
24 ~~exclusions from coverage, and provisions relating to the termination of individual~~
25 ~~coverages.~~

26 ~~B. Except as otherwise specifically provided in this Subpart, each self-insurer~~
27 ~~doing business in this state or issuing or providing in this state a self-insurance plan~~
28 ~~on September 7, 1990, shall take all actions necessary for full compliance with the~~
29 ~~provisions of this Subpart by July 1, 1991.~~

1 * * *

2 §481. Purpose; title

3 A. The purpose of this Subpart shall be to regulate the formation and operation
4 of risk retention groups in Louisiana, formed pursuant to the provisions of the federal
5 Risk Retention Amendments of 1986, as amended.

6 B. This Subpart shall be known and may be cited as the "Risk Retention
7 Group Law".

8 §482. Definitions

9 As used in this Subpart, the following terms shall have the meanings ascribed
10 to them in this Section:

11 * * *

12 (3) ~~"Domicile,"~~ "Domicile", for purposes of determining the state in which
13 a purchasing group is domiciled, means:

14 * * *

15 (12) "Risk retention group" means any corporation or other limited liability
16 association formed under the laws of any state, Bermuda, or the Cayman Islands:

17 * * *

18 (g) Whose activities do not include the provision of insurance other than:

19 * * *

20 (ii) Reinsurance with respect to the liability of any other risk retention group
21 or any members or secondary owners of such other group which is engaged in
22 businesses or activities so that such group or member or secondary owner meets the
23 requirement described in Subparagraph ~~(g)~~ (e) of this Paragraph from membership in
24 the risk retention group which provides such reinsurance.

25 * * *

26 §483. Risk retention groups chartered in Louisiana

27 A. A risk retention group seeking to be chartered in this state shall be
28 chartered and licensed as a liability insurance company authorized by the insurance
29 laws of this state and, except as provided elsewhere in this ~~Part,~~ Subpart, shall comply

1 with all of the laws, rules, regulations, and requirements applicable to such insurers
2 chartered and licensed in this state and with R.S. 22:484 to the extent such
3 requirements are not a limitation on laws, rules, regulations, or requirements of this
4 state. Before it may offer insurance in any state, each risk retention group shall also
5 submit for approval to the department of insurance a plan of operation or a feasibility
6 study.

7 * * *

8 §484. Risk retention groups not chartered in Louisiana

9 * * *

10 B. Notice of operations and designation of department as agent. Before
11 offering insurance in this state, a risk retention group shall submit to the department,
12 on a form prescribed by the department:

13 (1) A statement identifying the state or states in which the risk retention group
14 is chartered and licensed as a liability insurance company, date of chartering, its
15 principal place of business, its members, and such other information as the
16 commissioner of this state may require to verify that the risk retention group meets
17 the qualifications of R.S. 22:482~~(11)~~: (12).

18 (2) A copy of its plan of operations or a feasibility study and revisions of such
19 plan or study submitted to its state of domicile; except that this Section shall not apply
20 with respect to any line or classification of liability insurance which:

21 (a) ~~was~~ Was defined in the Product Liability Risk Retention Act of 1981
22 before the date of the enactment of this Act; and

23 (b) ~~was~~ Was offered before such date of enactment by any risk retention
24 group which has been chartered and operating for not less than three years before such
25 date of enactment.

26 * * *

27 D.(1) Taxation. All premiums paid for coverages within this state to risk-
28 retention groups shall be subject to taxation at the same rate and subject to the same
29 interest, fines, and penalties for nonpayment as that applicable to foreign admitted

1 insurers. To the extent licensed ~~agents or brokers~~ producers are utilized, they shall
2 report and pay the taxes for the premiums for risks which they have placed with or on
3 behalf of a ~~risk-retention~~ risk retention group not chartered in this state. To the extent
4 licensed ~~agents or brokers~~ producers are not utilized or fail to pay the tax, each ~~risk-~~
5 ~~retention~~ risk retention group shall pay the tax for risks insured with the state.
6 Further, each risk retention group shall report all premiums paid to it for risks insured
7 within the state.

8 (2) To the extent that licensed ~~insurance agents or brokers~~ producers are
9 compensated by a ~~risk-retention~~ risk retention group, they shall keep a complete and
10 separate record of all policies procured from each ~~risk-retention~~ risk retention group.
11 The record shall be open to examination by the department, as provided in R.S.
12 22:492. The records shall include for each policy and type of insurance the following:

13 * * *

14 H. Notice to purchasers. Any policy issued by a risk retention group shall
15 contain in ten point type on the front page and the declaration page, the following
16 notice:

17 **"NOTICE**

18 ~~This policy is issued by your risk retention group. Your risk retention group~~
19 ~~may not be subject to all of the insurance laws and regulations of your state. State~~
20 ~~insurance insolvency guaranty funds are not available for your risk retention group."~~

21 **"NOTICE**

22 **This policy is issued by your risk retention group. Your risk retention**
23 **group may not be subject to all of the insurance laws and regulations of your**
24 **state. State insurance insolvency guaranty funds are not available for your risk**
25 **retention group."**

26 K. Prohibited coverage. No risk retention group may offer insurance policy
27 coverage prohibited by ~~the Louisiana Insurance~~ this Code or declared unlawful by the
28 Louisiana Supreme Court.

29 * * *

1 §485. Additional authority; ~~risk-retention~~ risk retention groups

2 The commissioner may refuse, suspend, or revoke the registration of a risk
3 retention group whenever he shall find that such risk retention group: meets any one
4 of the following conditions:

5 * * *

6 §490. Registration and annual renewal; fees

7 Upon registration with the department, each risk purchasing group shall pay
8 the department ~~a the fee of one hundred dollars:~~ specified in R.S. 22:821(B)(18)(a).
9 Such registration shall expire on the first day of March of each year, unless renewed,
10 and shall be renewed by filing an annual report on a form prescribed by the
11 commissioner and paying ~~a the renewal fee of fifty dollars~~ specified in R.S.
12 22:821(B)(18)(b) to the department.

13 §491. Restrictions on insurance purchased by purchasing groups

14 A. A purchasing group may not purchase insurance from a risk retention
15 group that is not chartered in a state or from an insurer not admitted in the state in
16 which the purchasing group is located, unless the purchase is effected through a
17 licensed ~~agent or broker~~ producer acting pursuant to the ~~surplus lines~~ laws and
18 regulations of such state.

19 * * *

20 C. A purchasing group which obtains liability insurance from an insurer not
21 admitted in this state or a ~~risk-retention~~ risk retention group shall inform each of the
22 members of the group which have a risk located in this state that the risk is not
23 protected by the fund of an insurance guaranty association in this state and that the
24 ~~risk-retention~~ risk retention group or insurer may not be subject to all insurance laws
25 and regulations of this state.

26 * * *

27 §492. Administrative and procedural authority regarding risk retention groups and
28 purchasing groups

1 The commissioner may use any of the powers established under ~~the Insurance~~
2 this Code of this state to enforce the laws of this state so long as those powers are not
3 specifically preempted by the federal Product Liability Risk Retention Act of 1981,
4 as amended by the federal Risk Retention Amendments of 1986. This includes, but
5 is not limited to, the commissioner's administrative authority to investigate, issue
6 subpoenas, conduct depositions and hearings, issue orders, and impose penalties.
7 With regard to any investigation, administrative proceeding, or litigation, the
8 commissioner may rely on the procedural law and regulations of the state. However,
9 the injunctive authority of the commissioner in regard to risk retention groups is
10 restricted by the requirement that any injunction be issued by a court of competent
11 jurisdiction.

12 §493. Penalties

13 A risk retention group which violates any provision of this Subpart shall be
14 subject to fines and penalties applicable to licensed insurers generally, including
15 revocation of its ~~license~~ registration and the right to do business in this state.

16 §494. Duty on ~~agents or brokers~~ producers to obtain license

17 Any person acting, or offering to act, as ~~an agent or broker~~ a producer for a
18 risk retention group or purchasing group which solicits members, sells insurance
19 coverage, purchases coverage for its members located within the state, or otherwise
20 does business in this state shall obtain a license from the commissioner pursuant to
21 R.S. 22:1541 through 1554 and 1556 through 1565.

22 * * *

23 §498. Policyholder's liability

24 * * *

25 B. Each assessable policy issued by an admitted risk retention group shall
26 provide the following notice in ten-point print: "This is an assessable policy. The
27 maximum potential contingent liability shall not exceed one annual premium per
28 annum." **"This is an assessable policy. The maximum potential contingent**
29 **liability shall not exceed one annual premium per annum."**

1 * * *

2 §511. Title; purpose

3 * * *

4 B. The purpose of this Subpart is to provide the state of Louisiana with a
5 comprehensive body of law for the effective regulation and supervision of title
6 insurance, title insurers licensed to write title insurance in this state, title insurance
7 ~~agents, producers,~~ and the escrow, accounting, closing, and settlement practices of
8 insurers and ~~agents producers~~ wherein title insurance is issued or contemplated to be
9 issued.

10 §512. Definitions

11 As used only in this Subpart, the following words are defined as:

12 * * *

13 (5) "Depository" shall mean the title insurer, title insurance ~~agent, producer,~~
14 or qualified financial institution receiving a deposit of funds or documents.

15 * * *

16 (6) "Escrow" shall mean the act or process of providing closing and
17 settlement services or services pursuant to an escrow agreement by the title insurer
18 or title insurance ~~agent, producer.~~

19 (7) "Escrow account" shall mean the demand deposit account maintained by
20 a title insurer or title insurance ~~agent producer~~ at a qualified financial institution into
21 which the insurer or ~~agent producer~~ deposits all funds collected from any person who
22 is or will be a party to a transaction involving immovable property in which a title
23 insurance policy is contemplated to be issued.

24 (8) "Escrow agreement" shall mean the written agreement by which a
25 depositor delivers funds or documents to a title insurer or title ~~agent producer~~ and
26 which specifies the conditions to be satisfied or the event to be performed before the
27 release or delivery of the funds or documents to another person.

28 * * *

1 (14) "Security agreement" shall mean an agreement by which funds or other
2 property are received by the title insurer or the title insurance ~~agent~~ producer as
3 collateral to secure the obligation of a person under an indemnity agreement to
4 indemnify or protect a title insurer in exchange for agreeing to provide coverage in
5 a title insurance policy.

6 * * *

7 (16) "Title insurance ~~agent~~ producer" or "~~agent~~" "producer" shall mean a
8 person authorized on behalf of the title insurer to issue title insurance reports or
9 policies.

10 (17) "Title insurance business" or "business of title insurance" shall mean:

11 * * *

12 (b) Transacting or proposing to transact by a title insurer or a title insurance
13 ~~agent~~ producer any of the following activities when conducted or performed in
14 contemplation of or in conjunction with the issuance of a title insurance report or
15 policy:

16 * * *

17 §513. Title insurers and ~~agents~~; producers; qualifications

18 Only those persons authorized as a title insurer or ~~agent~~ producer pursuant to
19 this Title shall be qualified to issue a title insurance policy or report or otherwise
20 transact the business of title insurance. Notwithstanding any other law to the
21 contrary, all title insurance policies and reports covering any insurable interest in title
22 to immovable property located in this state shall be signed by ~~an agent~~ a producer
23 licensed in this state under this Subpart or by an employee of a title insurer issuing the
24 title insurance policies and reports when such employee is ~~an agent~~ a producer
25 licensed in this state under this Subpart.

26 * * *

27 §515. Title insurers; limitation of authority, powers

28 * * *

1 C.(1) Notwithstanding Subsection A of this Section, a title insurer may issue
 2 closing or settlement protection to a person who is a party to a transaction in which
 3 a title insurance policy is contemplated to be issued. The closing or settlement
 4 protection shall conform to the terms of coverage and form of instrument as may be
 5 required by the department and may indemnify a person solely against loss of
 6 settlement funds because of the following acts of a settlement agent, title insurer's
 7 named employee, or title insurance ~~agent~~: producer:

8 * * *

9 (b) Failure to comply with instructions when agreed to by the settlement
 10 agent, employee, or title insurance ~~agent~~: producer.

11 * * *

12 §517. Title insurance ~~agents~~; producers; licensing and reporting requirements

13 Every title insurance ~~agent~~ producer licensed in the state shall provide, in a
 14 timely fashion, each title insurer with which it places business all information the title
 15 insurer may request in compliance with the licensing and reporting requirements of
 16 the department.

17 §518. Title insurance ~~agents~~; producers; errors and omissions requirements

18 A. Every title insurance ~~agent~~ producer licensed in this state shall maintain
 19 an errors and omissions policy, which includes coverage for their acts or omissions
 20 as a title insurance ~~agent~~, producer, for the benefit of the title insurer or the depositor
 21 in amounts, under terms and conditions, and from insurers approved by the
 22 department, after considering the reasonableness of the cost and availability thereof.

23 B. The title insurance ~~agent~~ producer shall furnish the title insurer with proof
 24 that the ~~agent~~ producer complies with this Section.

25 §519. Title insurance ~~agents~~; producers; examination

26 The department or title insurer may during normal business hours examine,
 27 audit, and inspect any and all books, records, files, and escrow and operating accounts
 28 related to the title insurance business maintained by a title insurance ~~agent~~, producer
 29 its successor in interest, transferee, or receiver as provided under this Subpart.

1 (1) Fraud, insolvency, appointment of a receiver or conservator, bankruptcy,
2 cancellation of the license or permit to do business of the ~~agent~~, producer, or the
3 commencement of legal proceedings by the state of the domicile of the ~~agent~~,
4 producer, which if successful, would lead to the cancellation of the permit or license
5 to do business of the ~~agent~~. producer.

6 (2) Material breach of any provision of the contract between the title insurer
7 and the title insurance ~~agent~~. producer.

8 (3) In accordance with any other termination provision of the contract.

9 B. Upon the effective date as set forth in the notice of termination from a title
10 insurer, unless otherwise agreed to in writing by the title insurer, the ~~agent~~ producer
11 shall immediately discontinue all title insurance business on behalf of that title
12 insurer.

13 C. Nothing in this Subsection shall relieve the title insurance ~~agent~~ producer
14 or title insurer of any other contractual obligation.

15 §523. Title insurance ~~agent~~, producer; claims

16 It shall be the duty of the title ~~agent~~ insurance producer to immediately report
17 and forward to the title insurer all claims reported to the ~~agent~~ producer by
18 policyholders or other persons.

19 §524. Title insurance ~~agent~~, producer; restrictions

20 The title insurance ~~agent~~ producer shall not:

21 (1) Bind reinsurance on behalf of the title insurer.

22 (2) Permit any of its directors, officers, controlling shareholders, or
23 employees to serve on the title insurer's board of directors if the title insurance ~~agent~~
24 producer wrote one percent or more of the direct premiums of the title insurer written
25 in the previous calendar year as shown on the title insurer's most recent annual
26 statement filed with the department. This Subsection shall not apply to relationships
27 governed by R.S. 22:691 through 713.

1 insurer's most recent annual statement on file with the department. This Subsection
2 shall not apply to relationships governed by R.S. 22:691 through 713.

3 (2) Jointly employ an individual who is employed with the title insurance
4 ~~agent producer~~ unless the title insurer and the title insurance ~~agent producer~~ are
5 affiliated or otherwise under common control as defined by R.S. 22:692(3).

6 * * *

7 §529. Title insurer; inventory maintenance

8 The title insurer shall maintain an inventory of all numbered policy forms or
9 policy numbers allocated to each title insurance ~~agent producer~~.

10 §530. Title insurer; agency licensing and errors and omissions insurance
11 requirements

12 The title insurer shall have on file evidence that each appointed title insurance
13 ~~agent producer~~ is licensed by the state and maintains the errors and omissions
14 insurance required by this Subpart.

15 §531. Policyholder rights and disclosure

16 A. A title insurer or a title insurance ~~agent producer~~ issuing a title insurance
17 policy to a lender in conjunction with a mortgage loan involving immovable property
18 made simultaneously with the purchase of all or part of the immovable estate securing
19 the loan, when no owner's title insurance policy has been requested, shall give written
20 notice, on a form prescribed or approved by the department, to the purchaser-
21 mortgagor at the closing.

22 * * *

23 §532. Maintenance, conditions; escrow, closing, or settlement services, deposit
24 accounts by title insurer or its ~~agent producer~~

25 A. A title insurer or a title insurance ~~agent producer~~ may operate in a
26 fiduciary capacity as a closing, escrow, or settlement agent, provided that:

27 (1) All funds deposited with the title insurer or the title insurance ~~agent~~
28 ~~producer~~ in connection with any closing, escrow agreement, or security agreement
29 shall be deposited or submitted for collection to a qualified financial institution no

1 later than the close of the next business day following receipt or, in the case where a
2 borrower has a right of rescission, no later than the close of the next business day
3 following the termination of the right of rescission, in accordance with the following
4 requirements:

5 (a) All funds collected for the business of title insurance shall be deposited
6 and held in an escrow account as defined herein, in the name of the title insurer or title
7 insurance ~~agent~~ producer and clearly titled as an escrow, settlement, closing, or trust
8 account.

9 * * *

10 (3) Funds held in a security agreement for the purpose of clearing, writing
11 over, or insuring over an exception to title shall be disbursed only pursuant to a
12 written agreement specifying:

13 * * *

14 (b) The duties of the title insurer or the title insurance ~~agent~~ producer with
15 respect to disbursement of the funds held, including a requirement to maintain
16 evidence of the disposition of the title exception before any balance may be paid over
17 to the depositor or his ~~or her~~ designee.

18 * * *

19 B. All disbursements shall be drawn out of an escrow account only if:

20 * * *

21 (2) The funds are in the possession of the title insurer or title insurance ~~agent~~;
22 producer; and

23 (3) The funds are in one or more of the following forms:

24 * * *

25 (b) Wire transfers unconditionally received by the title insurer or the title
26 insurance ~~agent~~ producer or the depository of the insurer or ~~agent~~ producer.

27 * * *

1 (d) A personal check or other item which has been presented for payment and
2 for which funds have been unconditionally collected by the title insurer or the title
3 insurance ~~agent~~ producer.

4 * * *

5 (k) Checks drawn on the escrow accounts of title insurers or title insurance
6 ~~agents~~ producers when the title insurance ~~agent~~ producer issuing the check shall have
7 certified by affidavit the following:

8 * * *

9 (ii) That the funds disbursed are from those funds received by the title
10 insurance ~~agent~~ producer at the time of the real estate closing and settlement and were
11 in one of the forms enumerated in Paragraph (B)(3) of this Subsection.

12 * * *

13 §533. Record retention; requirements

14 The title insurer and the title insurance ~~agent~~ producer shall maintain sufficient
15 records of their affairs, including evidence of the examination of title and
16 determination of insurability and records of its escrow operations and escrow
17 accounts. The department may prescribe the specific record entries and documents
18 to be kept and the length of time for which the records shall be maintained.

19 §534. Louisiana Insurance Code; applicability to title insurers, title insurance ~~agents~~
20 producers

21 All title insurers and title insurance ~~agents~~ producers shall be subject to all
22 other applicable provisions of this Title unless specifically exempted by this Subpart.

23 * * *

24 §536. Penalties; liabilities

25 A. If the department determines that the title insurer or the title insurance
26 ~~agent~~ producer or any other person has violated this Subpart, or any rule, regulation,
27 or order promulgated thereunder, the department, pursuant to R.S. 22:2191 et seq.,
28 may order:

29 * * *

1 (2) Revocation or suspension of the license of the title insurance ~~agent~~
2 producer or the certificate of authority of the title insurer.

3 B. If an order of rehabilitation or liquidation of the insurer or of conservation
4 of assets of the insurer has been entered pursuant to R.S. 22:73 and 96, Subpart H of
5 Part III of this Chapter, ~~2~~, R.S. 22:731 et seq., and Chapter 9 ~~both~~ of this Title, R.S.
6 22:2001 et seq., and the receiver appointed under that order determines that the title
7 insurance ~~agent~~ producer or any other person has not complied with this Subpart, or
8 any related rule, regulation, or order, and the insurer suffered any resulting loss or
9 damage thereunder, the receiver shall maintain a civil action for recovery of damages
10 or other appropriate sanctions for the benefit of the insurer and its policyholders and
11 creditors.

12 * * *

13 D. Nothing contained in this Subpart is intended to or shall in any manner
14 limit or restrict the rights of policyholders, claimants, and creditors of the title insurer
15 or the title insurance ~~agent~~. producer.

16 * * *

17 PART II. BUSINESS TRANSACTED WITH ~~BROKER~~

18 PRODUCER CONTROLLED INSURER LAW

19 §551. Title

20 This Part shall be known and may be cited as the "Business Transacted with
21 ~~Broker~~ Producer Controlled Insurer Law".

22 §552. Definitions

23 As used in this Part, the following terms shall have the respective meanings
24 hereinafter set forth, unless the context shall otherwise require:

25 * * *

26 (2) "~~Broker~~" "Producer" means an insurance ~~broker~~ producer as defined in
27 R.S. 22:~~1162~~: 1542.

28 * * *

1 (4) "Controlled insurer" means a licensed insurer which is controlled, directly
2 or indirectly, by a ~~broker~~ producer.

3 (5) "Controlling ~~broker~~ producer" means a ~~broker~~ producer who, directly
4 or indirectly, controls an insurer.

5 * * *

6 §553. Applicability

7 This Part shall apply to licensed insurers as defined in R.S. 22:552, either
8 domiciled in this state or domiciled in a state that is not an accredited state having in
9 effect a law substantially similar to this Part. All provisions of the Insurance Holding
10 Company System Regulatory Law, R.S. 22:691 et seq., to the extent they are not
11 superseded by this Part, shall continue to apply to all parties within holding company
12 systems subject to this Part.

13 §554. Minimum standards

14 A. Applicability of Section. (1) The provisions of this Section shall apply
15 if, in any calendar year, the aggregate amount of gross written premium on business
16 placed with a controlled insurer by a controlling ~~broker~~ producer is equal to or greater
17 than five percent of the admitted assets of the controlled insurer, as reported in the
18 quarterly statement of the controlled insurer filed as of September thirtieth of the prior
19 year.

20 (2) Notwithstanding Paragraph (1) of this Subsection, the provisions of this
21 Section shall not apply if:

22 (a) The controlling ~~broker~~ producer places insurance only with the controlled
23 insurer, or only with the controlled insurer and a member or members of the holding
24 company system of the controlled insurer, or the controlled insurer's parent, affiliate,
25 or subsidiary and receives no compensation based upon the amount of premiums
26 written in connection with such insurance.

27 (b) The controlling ~~broker~~ producer accepts insurance placements only from
28 nonaffiliated ~~brokers~~, producers, and not directly from insureds.

1 (c) The controlled insurer, except for insurance business written through a
2 residual market facility, accepts insurance business only from a controlling ~~broker,~~
3 producer, a ~~broker~~ producer controlled by the controlled insurer, or a ~~broker~~ producer
4 that is a subsidiary of the controlled insurer.

5 B. Required contract provisions. A controlled insurer shall not accept
6 business from a controlling ~~broker~~ producer and a controlling ~~broker~~ producer shall
7 not place business with a controlled insurer, unless there is a written contract between
8 the controlling ~~broker~~ producer and the insurer specifying the responsibilities of each
9 party, which contract has been approved by the board of directors of the insurer and
10 contains the following minimum provisions:

11 (1) The controlled insurer may terminate the contract for cause, upon written
12 notice to the controlling ~~broker.~~ producer. The controlled insurer shall suspend the
13 authority of the controlling ~~broker~~ producer to write business during the pendency of
14 any dispute regarding the cause for the termination.

15 (2) The controlling ~~broker~~ producer shall render accounts to the controlled
16 insurer detailing all material transactions, including information necessary to support
17 all commissions, charges, and other fees received by, or owing to, the controlling
18 ~~broker.~~ producer.

19 (3) The controlling ~~broker~~ producer shall remit all funds due under the terms
20 of the contract to the controlled insurer on at least a monthly basis. The due date shall
21 be fixed so that premiums or installments collected shall be remitted no later than
22 ninety days after the effective date of any policy placed with the controlled insurer
23 under this contract.

24 (4) All funds collected for the controlled insurer's account shall be held by the
25 controlling ~~broker~~ producer in a fiduciary capacity, in one or more appropriately
26 identified bank accounts in banks that are members of the Federal Reserve System,
27 in accordance with the applicable provisions of ~~the Louisiana Insurance~~ this Code.
28 However, the funds of a controlling ~~broker~~ producer not required to be licensed in this

1 state shall be maintained in compliance with the requirements of the domiciliary
2 jurisdiction of the controlling ~~broker~~ producer.

3 (5) The controlling ~~broker~~ producer shall maintain separately identifiable
4 records of business written for the controlled insurer.

5 (6) The contract shall not be assigned in whole or in part by the controlling
6 ~~broker~~ producer.

7 (7) The controlled insurer shall provide the controlling ~~broker~~ producer with
8 its underwriting standards, rules and procedures, manuals setting forth the rates to be
9 charged, and the conditions for the acceptance or rejection of risks. The controlling
10 ~~broker~~ producer shall adhere to the standards, rules, procedures, rates, and conditions,
11 which shall be the same as those applicable to comparable business placed with the
12 controlled insurer by a ~~broker~~ producer other than the controlling ~~broker~~ producer.

13 (8) The contract shall specify the rates and terms of the commissions, charges,
14 and other fees of the controlling ~~broker~~ producer and the purposes for those charges
15 or fees. The rates of the commissions, charges, and other fees, shall be no greater
16 than those applicable to comparable business placed with the controlled insurer by
17 ~~brokers~~ producers other than controlling ~~brokers~~ producers. For purposes of this
18 Paragraph and Paragraph (7) of this Subsection, comparable business shall include the
19 same lines of insurance, same kinds of insurance, same kinds of risks, similar policy
20 limits, and similar quality of business.

21 (9) If the contract provides that the controlling ~~broker~~ producer, on insurance
22 business placed with the insurer, is to be compensated contingent upon the profits of
23 the insurer on that business, then such compensation shall not be determined and paid
24 until at least five years after the premiums on liability insurance are earned and at
25 least one year after the premiums are earned on any other insurance. In no event shall
26 the commissions be paid until the adequacy of the reserves of the controlled insurer
27 on remaining claims has been independently verified pursuant to Subsection C of this
28 Section.

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* * *

§555. Disclosure

A. The controlling ~~broker, producer,~~ prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the controlling ~~broker producer~~ and the controlled insurer; except that, if the business is placed through another ~~broker, producer,~~ who is not a controlling ~~broker, producer,~~ the controlling ~~broker producer~~ shall retain in his records a signed commitment from the other ~~broker producer~~ that such ~~broker producer~~ is aware of the relationship between the insurer and the controlling ~~broker producer~~ and that such ~~broker producer~~ has or will notify the insured.

~~B. Controlled insurers and controlling brokers shall comply with this Section beginning with all policies written or renewed on and after November 1, 1992.~~

§556. Penalties

A. If the commissioner believes that the controlling ~~broker, producer,~~ or any other person, has not materially complied with this Part, or any regulation or order promulgated hereunder, after notice and opportunity to be heard, the commissioner may order the controlling ~~broker producer~~ to cease placing business with the controlled insurer.

B. If it is found that, because the controlling ~~broker producer~~ or any other person has not materially complied with this Part, the controlled insurer or any policyholder thereof has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages, for the benefit of the insurer or policyholder, or other appropriate relief.

C. If an order for liquidation or rehabilitation of the controlled insurer has been entered and the receiver appointed pursuant to that order believes that the controlling ~~broker producer~~ or any other person has not materially complied with this Part, or any regulation or order promulgated hereunder, and the insurer suffered any

1 loss or damage therefrom, the receiver may maintain a civil action for recovery of
2 damages or other appropriate sanctions for the benefit of the insurer.

3 D. Nothing contained in this Section shall affect the right of the commissioner
4 to impose any additional penalties provided in ~~the Louisiana Insurance~~ this Code.

5 * * *

6 §571. Annual reports required

7 A. Every insurer authorized to do business in this state shall annually and
8 quarterly file with the commissioner of insurance a true statement of its financial
9 condition, transactions, and affairs, as hereafter required: along with such additional
10 filings as are prescribed by the commissioner for the preceding year, on or before
11 March first of each year, with the National Association of Insurance Commissioners.

12 The statement shall be on forms and shall contain information as required by this
13 Code and by the commissioner of insurance, including supplementals for additional
14 information required by the commissioner of insurance, and shall be verified by the
15 oaths of at least two of the insurer's principal officers. Statements shall also be filed
16 ~~on computer diskettes, as approved by the commissioner of insurance. The~~
17 ~~commissioner of insurance, under specific regulations promulgated by the~~
18 ~~commissioner, may annually waive the computer diskette reporting requirement.~~
19 electronically with the National Association of Insurance Commissioners. Any
20 amendments and addendums to the annual statement filing subsequently filed with the
21 commissioner shall also be filed with the National Association of Insurance
22 Commissioners.

23 B. The annual statement shall be due before the first day of March and show
24 the condition of the company as of the preceding thirty-first day of December,
25 ~~preceding~~. The first quarterly report shall be due prior to May fifteenth and show the
26 condition of the company as of the preceding thirty-first day of March, ~~preceding~~.
27 The second quarterly report shall be due prior to August fifteenth and show the
28 condition of the company as of the preceding thirtieth day of June, ~~preceding~~. The

1 third quarterly report shall be due prior to November fifteenth and show the condition
2 of the company as of the preceding thirtieth day of September. ~~preceding.~~

3 C. ~~The~~ Upon the request of an insurer, the commissioner of insurance shall
4 ~~annually during November and December~~ furnish each such insurer duplicate copies
5 of annual and quarterly forms as next required to be filed.

6 D. Each such insurer shall file the appropriate National Association of
7 Insurance Commissioners annual statement blank and quarterly statement blank,
8 which shall be prepared in accordance with the National Association of Insurance
9 Commissioners annual statement instructions handbook, and shall follow those
10 accounting practices and procedures prescribed by the appropriate National
11 Association of Insurance Commissioners Accounting Practices and Procedures
12 Manual.

13 E. In the absence of actual malice, members of the National Association of
14 Insurance Commissioners, their duly authorized committees, subcommittees, and task
15 forces, their delegates, employees of the National Association of Insurance
16 Commissioners, and all others charged with the responsibility of collecting,
17 reviewing, analyzing, and disseminating the information developed from the filing of
18 the annual statement convention blanks shall be acting as agents of the commissioner
19 under the authority of this Section and shall not be subject to civil liability for libel,
20 slander, or any other cause of action by virtue of their collection, review, and analysis
21 or dissemination of the data and information collected from such filings.

22 F. All financial analysis ratios and examination synopses concerning insurance
23 companies that are submitted to the Department of Insurance by the National
24 Association of Insurance Commissioners Insurance Regulatory Information System
25 shall be confidential and shall not be disclosed by the department.

26 ~~E.~~ G. The annual and quarterly statement of an alien insurer shall relate only
27 to its transactions and affairs in the United States unless the commissioner of
28 insurance requires otherwise. The statement shall be verified by the insurer's United
29 States manager or by its officers duly authorized.

1 F: H. The commissioner of insurance may suspend or revoke the certificate
2 of authority of any insurer failing to file its annual statement when due or during any
3 extension of time thereof which the commissioner of insurance, for good cause, may
4 grant.

5 G: I. Upon written application and approval by the commissioner, a domestic
6 company may be exempted from the following filings required by this Section:

7 (1) Quarterly statements.

8 (2) Management discussion and analysis accompanying the annual statement.

9 (3) Electronic filings with the National Association of Insurance
10 Commissioners.

11 (4) Holding company registration.

12 §572. ~~Participation in the Insurance Regulatory Information System of the National~~
13 ~~Association of Insurance Commissioners~~ Written catastrophe response plans

14 A.(1) ~~Each domestic, foreign, or alien insurer who is authorized to transact~~
15 ~~insurance in this state shall file a copy of its annual statement convention blank, along~~
16 ~~with such additional filings as are prescribed by the commissioner for the preceding~~
17 ~~year, on or before March first of each year, with the National Association of Insurance~~
18 ~~Commissioners. The information filed with the National Association of Insurance~~
19 ~~Commissioners shall be in the same format and scope as that required by the~~
20 ~~commissioner and shall include the signed jurat page and the actuarial certification.~~
21 ~~Any amendments and addendums to the annual statement filing subsequently filed~~
22 ~~with the commissioner shall also be filed with the National Association of Insurance~~
23 ~~Commissioners.~~

24 (2) ~~Foreign insurers that are domiciled in a state which has a law substantially~~
25 ~~similar to this Section shall be deemed in compliance with this Section.~~

26 B. ~~In the absence of actual malice, members of the National Association of~~
27 ~~Insurance Commissioners, their duly authorized committees, subcommittees, and task~~
28 ~~forces, their delegates, employees of the National Association of Insurance~~
29 ~~Commissioners, and all others charged with the responsibility of collecting,~~

1 reviewing, analyzing, and disseminating the information developed from the filing of
2 the annual statement convention blanks shall be acting as agents of the commissioner
3 under the authority of this Section and shall not be subject to civil liability for libel,
4 slander, or any other cause of action by virtue of their collection, review, and analysis
5 or dissemination of the data and information collected from such filings.

6 ~~C. All financial analysis ratios and examination synopses concerning~~
7 ~~insurance companies that are submitted to the Department of Insurance by the~~
8 ~~National Association of Insurance Commissioners Insurance Regulatory Information~~
9 ~~System shall be confidential and shall not be disclosed by the department.~~

10 ~~D. The commissioner may suspend, revoke, or refuse to renew the certificate~~
11 ~~of authority of any insurer failing to file its annual statement when due or within any~~
12 ~~extension of time which the commissioner, for good cause, may have granted.~~

13 Every insurer writing any form of commercial or residential property
14 insurance, automobile insurance, marine, or inland marine insurance or writing life
15 or health and accident insurance shall maintain a written catastrophe response plan
16 or plan that describes how the insurer will respond to a catastrophe affecting its
17 policyholders. Additionally, each health maintenance organization, managing
18 general agent, and third-party administrator shall maintain a written catastrophe
19 response plan or plan that describes how it will respond to a catastrophe affecting its
20 business operations. During an examination required by R.S. 22:1981, or at such other
21 time as the commissioner deems appropriate, he shall review the written catastrophe
22 response plan of each insurer, health maintenance organization, managing general
23 agent, and third-party administrator, the insurance written, and the response plan most
24 appropriate for the type of insureds or business operations at issue. The written
25 catastrophe response plan of each insurer, health maintenance organization, managing
26 general agent, and third-party administrator shall be deemed to be confidential,
27 proprietary information subject to the protections of the Uniform Trade Secrets Act,
28 pursuant to Chapter 13-A of Title 51 of the Louisiana Revised Statutes of 1950, shall

1 not be subject to the public records disclosures of R.S. 44:1, and shall not be made
2 public by the commissioner.

3 * * *

4 §574. Material transactions; report, domestic insurers

5 * * *

6 B.(1) Every domestic insurer shall file a report, including any exhibits or
7 other attachments with the department and with the National Association of Insurance
8 ~~Departments~~ Commissioners disclosing material acquisitions and dispositions of
9 assets or material nonrenewals, cancellations, or revisions of ceded reinsurance
10 agreements. No report shall be filed if the acquisitions and dispositions of assets or
11 material nonrenewals, cancellations, or revisions of ceded reinsurance agreements
12 have been submitted to the department for review, approval, or informational
13 purposes for other provisions of ~~the Louisiana Insurance Code~~ this Code, laws, regulations,
14 or other requirements.

15 * * *

16 D. All reports obtained by or disclosed to the department pursuant to this
17 Section shall be given confidential treatment and shall not be subject to subpoena and
18 shall not be made public by the department, the National Association of Insurance
19 ~~Departments, Commissioners,~~ or any other person, except to insurance departments
20 of other states, without the prior written consent of the reporting insurer. The
21 department may disclose the report after giving the reporting insurer notice and an
22 opportunity to be heard if it determines that the interest of policyholders,
23 shareholders, or the public will be served by the publication of the report. The
24 department may publish all or any part of the report in any form as the department
25 may deem appropriate.

26 * * *

27 §583. General limitation on investment in obligations of any one person

28 An insurer shall not, except with the consent of the commissioner of
29 insurance, have at any time any combination of investments in or loans upon the

1 security of the obligations, property, and securities of any one person or institution
 2 aggregating an amount exceeding five ~~percent~~ percent of the insurer's assets, except
 3 in the case of mortgage loans as provided in R.S. 22:584(A)(5) and in case of
 4 investments in stocks of corporations owning funeral homes as provided in R.S.
 5 22:584(C). This Section shall not apply to investments in, or loans upon the security
 6 of general obligations of the government of the United States or of any state or
 7 territory of the United States, or the District of Columbia nor to investments in foreign
 8 securities pursuant to R.S. 22:589(A), nor include policy loans made pursuant to R.S.
 9 22:584(E).

* * *

§584. Investments in securities

A. Any domestic insurer may invest in the following securities:

* * *

(4) Investment grade bonds or other obligations which are payable from
 revenues or earnings specifically pledged therefor of a public utility, state or
 municipally owned, either directly or through any civil divisions, authority or public
 instrumentality of a state or municipality, provided that the laws of the state or
 municipality authorizing the issuance of such bonds or other obligations require that
 rates for service shall be fixed, maintained, and collected at all times so as to produce
 sufficient revenue or earnings to pay all operating and maintenance charges and both
 principal and interest of such bonds or obligations, and provided further that no such
 bonds or other obligations shall be in default at the date of such investment; and
 investment grade bonds or evidences of indebtedness, which are payable from tax
 revenues of any parish, city, town, village, school district, drainage district, sanitary
 district, park district, or other political subdivision or municipal corporation of this
 state or any territory of the United States or the District of Columbia, which shall not
 be in default in the payment of any of its general obligation bonds or tax revenue
 bonds, either principal or interest, at the date of such investment, and which shall have
 sufficient tax revenues specifically pledged therefore at the date of such investment;

1 two-thirds ~~per centum~~ percent of its admitted assets in the securities described herein
2 and in Subsection G of this Section.

3 * * *

4 (6)(a) Subject to the limit set forth in Subsection B; of this Section, bonds or
5 evidences of indebtedness issued or guaranteed by any railroad corporation or
6 corporations, ~~(other than those organized and chartered for the sole purpose of~~
7 ~~holding stocks of other corporations)~~, created under the laws of the United States or
8 of any of the states of the United States or the District of Columbia or any certificates
9 of any equipment trust created on behalf of any such railroad corporation; provided
10 that such bonds or certificates have not been in default as to principal or interest
11 payments during any of the five years next preceding the date of such investment or
12 during the tenure of such issue if issued less than five years prior to such investment,
13 and provided further that no insurer shall invest in any one issue of such bonds,
14 certificates or evidences of indebtedness, an amount in excess of two ~~per cent~~ percent
15 of such insurer's admitted assets.

16 (b) Such domestic insurer shall not invest in excess of thirty-three and one-
17 third ~~per centum~~ percent of its admitted assets in bonds, certificates, or other
18 evidences of indebtedness described in this ~~paragraph.~~ Paragraph.

19 * * *

20 (9)(a) Subject to the limit set forth in Subsection B of this Section, preferred
21 or guaranteed stocks issued or guaranteed by any solvent corporation or corporations,
22 except the stocks of other insurance companies, created under the laws of the United
23 States or any of the states of the United States or the District of Columbia; provided
24 that no insurer shall invest in any one issue of any such preferred or guaranteed stocks
25 in an amount in excess of two percent of such insurer's admitted assets; and provided
26 further that no such stocks shall be purchased unless the prescribed dividends are
27 being paid thereon.

28 (b) Such domestic insurer shall not invest in excess of twenty-five percent of
29 its admitted assets in the stocks described in this Paragraph; but in no event shall it

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

1 invest in common stocks, other than guaranteed stocks, except as provided in
2 Subsections C and D of this Section; nor shall it invest in or loan any of its funds on
3 its own stock.

4 * * *

5 (13)(a) Dormitory and union building revenue bonds issued by the state board
6 of education for the state colleges, or by the board of supervisors of Louisiana State
7 University and Agricultural and Mechanical College, provided that the governing
8 body of any state college or state university authorizing the issuance of such bonds
9 requires that rates for service shall be fixed, maintained, and collected at all times so
10 as to produce sufficient revenue or earnings to pay all operating and maintenance
11 charges and both principal and interest of such bonds, and provided, further, that no
12 such bonds shall be in default at the date of such investment.

13 (b) No company shall invest an aggregate of more than thirty-three and one-
14 third ~~per centum~~ percent of its admitted assets in the bonds or other obligations
15 described in ~~R.S. 22:584(A)(4)~~ Paragraph (4) of this Subsection and also those bonds
16 described in ~~the preceding paragraph.~~ Subparagraph (a) of this Paragraph.

17 * * *

18 (18)

19 * * *

20 (b) Investments hereunder shall have a current and continuing minimum
21 quality rating of "A" by one or more of the ~~four~~ nationally recognized securities rating
22 organizations and a rating by the National Association of Insurance Commissioners
23 Securities Valuation Office of one, or if unrated, shall be promptly submitted upon
24 acquisition to the National Association of Insurance Commissioners Securities
25 Valuation Office and receive a minimum quality rating of one. Such domestic insurer
26 shall not invest in excess of one percent of its admitted assets in any one issue of
27 asset-backed obligations or in excess of five percent of its admitted assets in the
28 aggregate of asset-backed obligations described in this Paragraph.

1 he shall specify. Any such order of the commissioner of insurance shall be subject
2 to review as provided in Chapter 12 of this Title-, R.S. 22:2191 et seq.

3 * * *

4 G.

5 * * *

6 (2) The aggregate investment by any such insurer under the terms of this
7 Subsection, as evidenced by its original purchase price, shall not exceed five ~~per cent~~
8 percent of the admitted assets of the insurer.

9 (3) The combined investments by a domestic insurer under the provisions of
10 this Subsection and Paragraph (5) of Subsection A of this Section shall not exceed
11 sixty-six and two-thirds ~~per cent~~ percent of the admitted assets of such insurer on the
12 December 31 ~~thirty-first~~ next preceding such investment.

13 * * *

14 (6) ~~Such orders~~ Orders or decisions of the commissioner of insurance shall
15 be subject to review as provided in Chapter 12 of this Title-, R.S. 22:2191 et seq.

16 * * *

17 L. A domestic insurer may invest in the following:

18 * * *

19 (2) Notwithstanding the provisions of Subsection H of this Section, the total
20 of loans and investments made pursuant to this Subsection shall not exceed two
21 percent of the insurer's admitted assets.

22 * * *

23 N. A domestic insurer may purchase contracts for the servicing of first
24 mortgage loans. The total investment in such contracts shall not exceed ten percent
25 in the aggregate of the insurer's admitted assets.

26 * * *

27 §586. Derivative transactions

28 * * *

1 B. ~~An~~ A domestic insurer may engage in derivative transactions under this
2 Section under the following general conditions:

3 * * *

4 §588. Restriction on acquisition and holding of real property

5 A. No domestic insurer may acquire or hold real property except as follows:

6 * * *

7 (5) Such unencumbered real property as shall have been acquired, in whole
8 or in part, in exchange for real property of approximately the same value theretofore
9 legally acquired and held by it, provided that the amount invested in any one parcel
10 of property so acquired, other than property acquired for the purpose, specified in
11 ~~paragraph~~ Paragraph (1); of this Subsection. shall not exceed two ~~per cent~~ percent of
12 the investing insurer's admitted assets.

13 * * *

14 §589. Foreign securities

15 A. ~~An~~ A domestic insurer authorized to transact insurance in a foreign
16 country may invest any of its funds, in an aggregate amount not exceeding one
17 hundred twenty ~~per cent~~ percent of its reserves and other statutory obligations
18 incurred in such country, or such greater amount as it may be required by law to
19 invest in such country, and maintain the same there, in securities of such country
20 possessing characteristics and of a quality similar to those required pursuant to this
21 Subpart for investments in the United States; ~~provided that, however,~~ if an insurer
22 shall show, to the satisfaction of the commissioner of insurance, that it is impossible
23 to withdraw from a foreign country, or that the interest of the insurer will suffer
24 materially by such withdrawal, any of its funds in excess of the limit imposed in this
25 Section, such insurer shall not be deemed to be in violation of the provisions ~~hereof.~~
26 of this Subsection.

27 B. ~~An~~ A domestic insurer may invest any of its funds, in an aggregate amount
28 not exceeding five ~~per cent~~ percent of its admitted assets, in addition to any amount
29 permitted pursuant to ~~Sub-section~~ Subsection A of this Section, in obligations of the

1 government of the Dominion of Canada or of Canadian provinces or municipalities,
2 and in obligations of Canadian corporations, which have not been in default during
3 the five years next preceding date of acquisition, and which are otherwise of equal
4 quality to like United States public or corporate securities as prescribed in this
5 Subpart.

6 * * *

7 §590. When restrictions not applicable

8 A. The restrictions of R.S. 22:584 and 22:588 shall not apply to securities or
9 other assets acquired through merger or consolidation with any other insurer or
10 through a reinsurance agreement, if such assets when originally acquired constituted
11 legal investments for the merged, consolidated, or ceding insurer which acquired
12 them, nor shall such provisions apply to securities, obligations or other assets
13 accepted incident to the adjustment or realization of any debt or investment when
14 deemed by the board of directors or investment committee to be in the best interests
15 of the insurer; ~~but, subject to the provisions of Sub-section B all such securities,~~
16 ~~obligations or other assets so acquired or accepted after 12:00 noon of October 1,~~
17 ~~1948, which are not in accordance with the provisions of this Subpart shall be~~
18 ~~disposed of not later than five years after the date of such acquisition or acceptance,~~
19 ~~or if acquired prior to 12:00 noon of October 1, 1948, not later than five years after~~
20 ~~such latter date.~~

21 * * *

22 §593. Record of investments

23 A. As to each investment or loan of the funds of a domestic insurer, a written
24 authorization thereof in permanent form shall be made; and signed by the officer or
25 chairman of such committee authorizing the investment or loan.

26 B. As to each such investment or loan, the insurer's records shall contain:

27 (1) In the case of loans: ~~The~~ the name of the borrower; the location and legal
28 description of the property; a physical description; and the appraised value of the
29 security; and the amount of the loan, rate of interest, and terms of repayment.

1 B. Such property shall be considered as a foreign security within the meaning
2 of R.S. 22:589. The investment in such property shall also be included, together with
3 that of other real estate held under the terms of R.S. 22:588 in determining whether
4 or not there has been compliance with the limit on investments fixed by R.S.
5 22:588(A)(1).

6 §598. Admitted assets

7 For the purposes of this Subpart, the following assets, if owned by ~~an~~ a
8 domestic insurer, shall be known as admitted assets:

9 * * *

10 (8) The full amount of reinsurance recoverable by a ceding insurer from a
11 solvent reinsurer and which reinsurance is authorized under ~~the Louisiana Insurance~~
12 this Code.

13 * * *

14 §599. Excluded assets

15 In addition to assets impliedly excluded by the provisions of R.S. 22:598, the
16 following expressly shall not be allowed as assets in any determination of the
17 financial condition of an insurer:

18 * * *

19 (5) The amount, if any, by which the aggregate book value of investments,
20 as carried in the assets of the insurer, exceeds the aggregate value, as determined
21 under the provisions of ~~the Louisiana Insurance~~ this Code.

22 * * *

23 §601. Insurer investment pools

24 * * *

25 F. The pooling agreement for each investment pool shall be in writing and
26 shall provide that:

27 (1) An insurer and its affiliated insurers or, in the case of an investment pool
28 investing solely in investments permitted under Paragraph ~~B(B)~~(1) of this Section, the
29 insurer and its subsidiaries, affiliates, or, in the case of a United States branch of an

1 alien insurer, affiliates or subsidiaries of its United States manager, shall at all times,
2 hold one hundred percent of the interests in the investment pool.

3 * * *

4 §611. Definitions

5 As used in this Subpart, the following terms shall have the following
6 meanings:

7 * * *

8 (4) "NAIC" means the National Association of Insurance ~~Departments.~~
9 Commissioners.

10 * * *

11 (11) "Total adjusted capital" means the sum of:

12 * * *

13 (b) Such other items, if any, as required by ~~R.S. 22:611(7).~~ Paragraph (7) of
14 this Section.

15 * * *

16 §613. Company-action level event

17 A. "Company-action level event" means any of the following events:

18 * * *

19 (2) The notification of a domestic insurer by the department of an adjusted
20 risk-based capital report which indicates an event under Paragraph ~~B~~ (B)(1) of this
21 Section unless the insurer fails to dispute the adjusted risk-based capital report
22 required by R.S. 22:617.

23 * * *

24 B. In the event a company-action event occurs, the insurer shall prepare and
25 submit to the department a risk-based capital plan that shall:

26 (1) Identify the conditions which contribute to the ~~company action~~ company-
27 action level event.

28 * * *

1 §615. Authorized-control level event

2 * * *

3 B. In the event of an authorized-control level event by an insurer, the
4 department shall:

5 (1) Take actions required pursuant to R.S. 22:614 against an insurer.

6 (2)(a) If the department deems it to be in the best interest of the policyholders,
7 creditors of the insurer, and the public, place the insurer under those proceedings
8 provided by R.S. 22:73 and 96, Subpart H of this Part, ~~II of Chapter 2, R.S. 22:731~~
9 et seq., and Chapter 9 of ~~the Louisiana Insurance~~ this Code-, R.S. 22:2001 et seq.

10 (b) In the event the department takes the actions permitted by this Section, the
11 authorized-control level event shall be deemed sufficient grounds for the department
12 to take action as provided by R.S. 22:73 and 96, Subpart H of this Part, ~~II of Chapter~~
13 2, and Chapter 9 of ~~the Louisiana Insurance~~ this Code and to have the rights, powers,
14 and duties with respect to the insurer as are set forth in R.S. 22:73 and 96, Subpart H
15 of this Part, ~~II of Chapter 2,~~ and Chapter 9 of ~~the Louisiana Insurance~~ this Code

16 (c) In the event the department takes any action under this Section based on
17 an adjusted risk-based capital report, the insurer shall be entitled to such protection
18 as provided in R.S. 22:73 and 96, Subpart H of this Part, ~~II of Chapter 2,~~ and Chapter
19 9 of ~~the Louisiana Insurance~~ this Code.

20 §616. Mandatory-control level event

21 * * *

22 B. In the event of a mandatory-control level event:

23 (1) For any domestic life insurer, the department shall take any actions
24 necessary to place the insurer under regulatory control as provided by R.S. 22:73 and
25 96, Subpart H of this Part, ~~II of Chapter 2, R.S. 22:731 et seq.,~~ and Chapter 9 of ~~the~~
26 ~~Louisiana Insurance~~ this Code-, R.S. 22:2001 et seq. The mandatory-control level
27 event shall be deemed sufficient grounds for the department to place and maintain the
28 rights, powers, and duties with respect to the insurer as are set forth in R.S. 22:73 and
29 96, Subpart H of this Part, ~~II of Chapter 2,~~ and Chapter 9 of ~~the Louisiana Insurance~~

1 §618. Confidentiality; prohibition on announcements, prohibition on use in
2 ratemaking

3 A. All risk-based capital reports, to the extent the information is not set forth
4 in a publicly available annual statement schedule and risk-based capital plans,
5 including the results or report of any examination or analysis of an insurer performed
6 pursuant to any corrective order issued by the department pursuant to examination or
7 analysis, with respect to any domestic insurer or foreign insurer, which are filed with
8 the department, constitute information that might be damaging to the insurer if made
9 available to its competitors, and therefore shall be kept confidential by the
10 department. The information shall not be made public or be subject to civil subpoena,
11 other than by the department and then only for the purpose of enforcement actions
12 taken by the department pursuant to this Subpart or any other provision of ~~the~~
13 ~~Louisiana Insurance~~ this Code.

14 * * *

15 §619. Supplemental provisions; rules; exemption

16 A. The provisions of this Subpart are supplemental to any other provision of
17 the laws of this state and shall not preclude or limit any other powers or duties of the
18 department under ~~the Louisiana Insurance~~ this Code.

19 * * *

20 §620. Foreign insurers

21 * * *

22 C. In the event of a mandatory-control level event with respect to any foreign
23 insurer, if no domiciliary receiver has been appointed with respect to the foreign
24 insurer under the rehabilitation and liquidation statute applicable in the state of
25 domicile of the foreign insurer, the department may make application to the
26 Nineteenth Judicial District Court for and in the parish of East Baton Rouge in
27 accordance with ~~the Louisiana Insurance~~ this Code with respect to the liquidation of
28 property of the foreign insurers located in the state. The occurrence of the mandatory-

1 control level event shall be considered adequate grounds for the application to the
2 court.

3 §631. Definitions

4 As used in this Subpart, these terms shall have the following meanings:

5 * * *

6 (4) "Health organization" means a health maintenance organization licensed
7 under Subpart I of Part I of this Chapter, ~~2 of this Title~~.

8 * * *

9 (6) "Risk-based capital level" means a health organization's ~~company action~~
10 company-action level risk-based capital, ~~regulatory action~~ regulatory-action level
11 risk-based capital, ~~authorized control~~ authorized-control level risk-based capital, or
12 ~~mandatory control~~ mandatory-control level risk-based capital where:

13 (a) ~~Effective December 31, 2003:~~

14 (i) ~~"Company action level risk-based capital" means the product of 1.5 and~~
15 ~~the number determined under the risk-based capital formula in accordance with the~~
16 ~~risk-based capital instructions.~~

17 (ii) ~~"Regulatory action level risk-based capital" means the product of 1.25 and~~
18 ~~the number determined under the risk-based capital formula in accordance with the~~
19 ~~risk-based capital instructions.~~

20 (iii) ~~"Authorized control level risk-based capital" means the product of 1.1~~
21 ~~and the number determined under the risk-based capital formula in accordance with~~
22 ~~the risk-based capital instructions.~~

23 (iv) ~~"Mandatory control level risk-based capital" means the product of .95 and~~
24 ~~the number determined under the risk-based capital formula in accordance with the~~
25 ~~risk-based capital instructions.~~

26 (b) ~~Effective December 31, 2004:~~

27 (i) (a) ~~"Company action~~ Company-action level risk-based capital" means the
28 product of ~~2.0~~ two and the number determined under the risk-based capital formula
29 in accordance with the risk-based capital instructions.

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* * *

§635. ~~Regulatory action~~ Regulatory-action level event

A. "~~Regulatory action~~ Regulatory-action level event" means any of the following events:

(1) The filing of a risk-based capital report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its authorized control level risk-based capital but less than its ~~regulatory action~~ regulatory-action level risk-based capital.

* * *

(6) Notification by the commissioner to the health organization that both of the following apply:

* * *

(b) Notification constitutes a ~~regulatory action~~ regulatory-action level event with respect to the health organization, provided the health organization has not challenged the determination pursuant to R.S. 22:638.

* * *

(8) Notification by the commissioner to the health organization that the health organization has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the health organization to eliminate the ~~company action~~ company-action level event in accordance with its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, provided the health organization has not challenged the determination under R.S. 22:638.

* * *

B. In the event of a ~~regulatory action~~ regulatory-action level event, the commissioner shall do the following:

* * *

C. In determining corrective actions, the commissioner may take into account factors the commissioner deems relevant with respect to the health organization based

1 upon the commissioner's examination or analysis of the assets, liabilities, and
2 operations of the health organization, including but not limited to the results of any
3 sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-
4 based capital plan or revised risk-based capital plan shall be submitted either:

5 (1) Within forty-five days after the occurrence of the ~~regulatory-action~~
6 regulatory-action level event.

7 * * *

8 §636. ~~Authorized control~~ Authorized-control level event

9 A. "~~Authorized control~~ Authorized-control level event" means any of the
10 following events:

11 (1) The filing of a risk-based capital report by the health organization that
12 indicates that the health organization's total adjusted capital is greater than or equal
13 to its ~~mandatory control~~ mandatory-control level risk-based capital but less than its
14 ~~authorized control~~ authorized-control level risk-based capital.

15 * * *

16 B. In the event of an ~~authorized control~~ authorized-control level event with
17 respect to a health organization, the commissioner shall do either of the following:

18 (1) Take such actions as are required under R.S. 22:635 regarding a health
19 organization with respect to which a ~~regulatory-action~~ regulatory-action level event
20 has occurred.

21 (2) If the commissioner deems it to be in the best interests of the
22 policyholders and creditors of the health organization and of the public, take such
23 actions as are necessary to cause the health organization to be placed under regulatory
24 control pursuant to R.S. 22:73 and 96, Subpart H of ~~this Part, III of Chapter 2,~~ R.S.
25 22:731 et seq., and Chapter 9 of this Title~~., R.S. 22:2001 et seq.~~ In the event the
26 commissioner takes such actions, the ~~authorized control~~ authorized-control level
27 event shall be deemed sufficient grounds for the commissioner to take action pursuant
28 to R.S. 22:73 and 96, Subpart H of ~~this Part, III of Chapter 2,~~ and Chapter 9 of this
29 Title and the commissioner shall have the rights, powers, and duties with respect to

1 the health organization as are set forth in R.S. 22:73 and 96, Subpart H of this Part,
2 ~~HH of Chapter 2~~, and Chapter 9 of this Title.

3 §637. ~~Mandatory control~~ Mandatory-control level event

4 A. "~~Mandatory control~~ Mandatory-control level event" means any of the
5 following events:

6 (1) The filing of a risk-based capital report which indicates that the health
7 organization's total adjusted capital is less than its ~~mandatory control~~ mandatory-
8 control level risk-based capital.

9 * * *

10 B. In the event of a ~~mandatory control~~ mandatory-control level event, the
11 commissioner shall take such actions as are necessary to place the health organization
12 under regulatory control pursuant to R.S. 22:73 and 96, Subpart H of this Part, ~~HH of~~
13 ~~Chapter 2~~, R.S. 22:731 et seq., and Chapter 9 of this Title, ~~R.S. 22:2001 et seq.~~ In
14 that event, the ~~mandatory control~~ mandatory-control level event shall be deemed
15 sufficient grounds for the commissioner to take action under, and the commissioner
16 shall have the rights, powers, and duties with respect to the health organization as are
17 set forth in R.S. 22:73 and 96, Subpart H of this Part, ~~HH of Chapter 2~~, and Chapter
18 9 of this Title. Notwithstanding any of the foregoing, the commissioner may forego
19 action for up to ninety days after the ~~mandatory control~~ mandatory-control level event
20 if the commissioner finds there is a reasonable expectation that the ~~mandatory control~~
21 mandatory-control level event may be eliminated within the ninety-day period.

22 * * *

23 §638. Hearings

24 Upon the occurrence of any of the following events, the health organization
25 shall have the right to a confidential departmental hearing, on a record, at which the
26 health organization may challenge any determination or action by the commissioner.
27 The health organization shall notify the commissioner of its request for a hearing
28 within five days after the notification by the commissioner under Paragraph (1), (2),
29 (3), or (4) of this Section. Upon receipt of the health organization's request for a

1 hearing, the commissioner shall set a date for the hearing, which shall be no less than
2 ten nor more than thirty days after the date of the health organization's request. The
3 events include:

4 * * *

5 (2) Notification to a health organization by the commissioner that both of the
6 following apply:

7 * * *

8 (b) Notification constitutes a ~~regulatory action~~ regulatory-action level event
9 with respect to the health organization.

10 (3) Notification to a health organization by the commissioner that the health
11 organization has failed to adhere to its risk-based capital plan or revised risk-based
12 capital plan and that the failure has a substantial adverse effect on the ability of the
13 health organization to eliminate the ~~company action~~ company-action level event with
14 respect to the health organization in accordance with its risk-based capital plan or
15 revised risk-based capital plan.

16 * * *

17 §651. Reinsurance credits

18 * * *

19 D.(1)(a) Credit shall also be allowed under ~~Subparagraph~~ Paragraph (2) of
20 this Subsection when the reinsurance is ceded to an assuming insurer which maintains
21 a trust fund in a qualified United States financial institution, as defined in R.S.
22 22:653(B), for the payment of the valid claims of its United States policyholders and
23 ceding insurers, their assigns, and successors in interest. The assuming insurer shall
24 report and submit annually to the commissioner information substantially the same
25 as that required to be reported on the National Association of Insurance
26 Commissioners (NAIC) annual statement form by authorized insurers to enable the
27 commissioner to determine the sufficiency of the trust fund.

28 (b) Any credit for reinsurance shall not be granted under ~~Subparagraph~~
29 Paragraph (2) of this Subsection unless the form of the trust and amendments to the

1 trust have been approved by the Department of Insurance. The trust instrument shall
 2 provide that contested claims shall be valid and enforceable upon the final order of
 3 any court of competent jurisdiction in the United States. The trust shall vest legal title
 4 to its assets in the trustees of the trust for its United States ceding insurers, their
 5 assigns, and successors in interest. The trust shall be subject to examination as
 6 determined by the department. The trust described herein shall remain in existence
 7 for as long as the assuming insurer shall have obligations due under the reinsurance
 8 agreements subject to the trust.

9 (c) Not later than the twenty-eighth day of each February, the trustees of the
 10 trust established under ~~Subparagraph~~ Paragraph (2) of this Subsection shall provide
 11 a written report to the department setting forth the balance of the trust and listing the
 12 investments of the trust of the preceding calendar year, and shall certify the date of
 13 termination of the trust, if so planned, or shall certify that the trust shall not expire
 14 prior to the succeeding December thirty-first.

15 * * *

16 §654. Calculation of reinsurance credits

17 A. For the purpose of determining the financial condition of a ceding insurer,
 18 only if such reinsurance is effected by the ceding insurer in any assuming insurer
 19 authorized to do such business in this state, the ceding insurer shall, in addition to any
 20 credit allowed against its loss reserves, receive credit for such reinsurance calculated
 21 in the following manner:

22 (1) In the case of reinsurance of the whole or any part of any risk other than
 23 as specified in Paragraph (2) ~~following~~, of this Subsection, the ceding insurer shall
 24 receive credit for such reinsurance by way of deduction from its unearned premium
 25 liability calculated in accordance with the provisions of Subpart B of Part IV of
 26 this Chapter, 2 of this Title. R.S. 22:761 et seq.

27 * * *

28 §661. Authorization; hearings on violations

29 * * *

1 request, the insurer may request, in writing, a hearing on its application. The hearing
2 shall be held in accordance with Chapter 12 of ~~the Louisiana Insurance~~ this Code.

3 * * *

4 §693. Subsidiaries of insurers

5 * * *

6 B. Additional investment authority. In addition to investments in common
7 stock, preferred stock, debt obligations, and securities permitted under all other
8 Sections of this Code, a domestic insurer may also:

9 * * *

10 (2) Invest any amount in common stock, preferred stock, debt obligations, and
11 other securities of one or more subsidiaries engaged or organized to engage
12 exclusively in the ownership and management of assets authorized as investments for
13 the insurer, provided that each subsidiary agrees to limit its investments in any asset
14 so that such investments will not cause the amount of the total investment of the
15 insurer to exceed any of the investment limitations specified in ~~Subsection B~~
16 Paragraph (1) of this Section or any other limitations set forth in this Code
17 applicable to the insurer. For the ~~purpose~~ purposes of this Section, "the total
18 investment of the insurer" shall include:

19 * * *

20 §694. Acquisition of control of or merger with domestic insurer

21 * * *

22 D. Approval by commissioner; hearings.

23 (1) The commissioner shall approve any merger or other acquisition of
24 control referred to in Subsection A of this Section unless, after a public hearing held
25 pursuant to the provisions of Chapter 12 of this Title, ~~22 of the Louisiana Revised~~
26 ~~Statutes of 1950, R.S. 22:2191 et seq.~~, he finds that:

27 * * *

28 §696. Incorporation of a mutual insurance holding company

29 * * *

1 C. Any investments of the mutual insurance holding company, other than its
 2 investments in the intermediate holding company or the insurance company
 3 reorganized under R.S. 22:231, shall be subject to the limitations of Subpart B of
 4 this Part III of Chapter 2 of this Title as if the mutual insurance holding company
 5 were a domestic insurer. A mutual insurance holding company and an intermediate
 6 holding company organized under this Section shall be deemed an insurer that pays
 7 a license tax under Parts I and III of Chapter 3 of this Title, R.S. 22:791 et seq. and
 8 R.S. 22:821 et seq., and R.S. 22:831 through 838 and 842 through 846 for the
 9 purposes of R.S. 22:791.

10 * * *

11 §699. Insurer's rehabilitation and liquidation

12 A mutual insurance holding company established pursuant to R.S. 22:231 is
 13 deemed to be an insurer subject to R.S. 22:73 and 96, Subpart H of this Part, III of
 14 Chapter 2, R.S. 22:731 et seq., and Chapter 9 of this Title, R.S. 22:2001 et seq., and
 15 shall automatically be a party to any proceeding under that Part involving an
 16 insurance company which, as a result of a reorganization pursuant to R.S. 22:231, is
 17 a subsidiary of the mutual insurance holding company or an intermediate holding
 18 company. In any proceeding under R.S. 22:73 and 96, Subpart H of this Part, III of
 19 Chapter 2, and Chapter 9 of this Title involving an insurance company reorganized
 20 under R.S. 22:231, the assets of the mutual insurance holding company are deemed
 21 to be assets of the estate of the reorganized insurance company for purposes of
 22 satisfying the claims of the reorganized insurance company's policyholders. A mutual
 23 insurance holding company shall not dissolve or liquidate without the approval of the
 24 commissioner or as ordered by the district court pursuant to R.S. 22:73 and 96,
 25 Subpart H of this Part, III of Chapter 2, and Chapter 9 of this Title.

26 * * *

27 §701. Sale of stock

28 An intermediate holding company established and an insurance company
 29 reorganized pursuant to R.S. 22:231 may issue stock to any persons legally permitted

1 to own stock, provided that the mutual insurance holding company at all times owns
 2 either directly or indirectly a majority of the voting shares of the capital stock of the
 3 reorganized insurance company as required by R.S. 22:698. Except with respect to
 4 stock issued directly or indirectly for ownership by the ~~Mutual Insurance Holding~~
 5 ~~Company~~, mutual insurance holding company, the reorganized insurance company,
 6 or the intermediate holding company shall, prior to the initial issuance of stock, obtain
 7 a fairness opinion with respect to the value of the stock to be issued from an
 8 investment banking organization with experience and established credentials in the
 9 evaluation of insurance organizations. No solicitation for the sale of the stock of an
 10 insurance company reorganized under R.S. 22:231 or the intermediate holding
 11 company established under R.S. 22:231 may be made except in accordance with the
 12 provisions of R.S. 22:88.

13 * * *

14 §703. Registration of insurers

15 A. Registration.

16 (1) Every insurer which is authorized to do business in this state and which
 17 is a member of an insurance holding company system shall register with the
 18 commissioner, except a foreign insurer subject to registration requirements and
 19 standards adopted by statute or regulation in the jurisdiction of its domicile which are
 20 substantially similar to those contained in:

21 * * *

22 (b) R.S. 22:704(A), ~~R.S. 22:704~~ and (B).

23 * * *

24 §704. Standards and management of an insurer within a holding company system

25 * * *

26 B. Dividends and other distributions.

27 * * *

28 (2)(a) For purposes of this Section, ~~until~~ effective October 30, 1993, an
 29 extraordinary dividend or distribution shall include any dividend or distribution of

1 cash or other property, whose fair market value, together with that of other dividends
2 or distributions made within the preceding twelve months, exceeds the ~~greater~~ lesser
3 of:

4 * * *

5 (b) In determining whether a dividend or distribution is extraordinary, an
6 insurer, other than a life insurer, may carry forward net income from the previous two
7 calendar years that has not already been paid out as dividends. The carry forward
8 shall be computed by taking the net income from the second and third preceding
9 calendar years, not including realized capital gains, less dividends paid in the second
10 and immediate preceding calendar years. ~~Effective October 30, 1993, any~~
11 ~~extraordinary dividend or distribution shall include any dividend or distribution of~~
12 ~~cash or other property whose fair market value, together with that of other dividends~~
13 ~~or distributions made within the preceding twelve months, exceeds the lesser of (i) or~~
14 ~~(ii) of Subparagraph (a).~~

15 * * *

16 §709. Sanctions

17 * * *

18 B.(1) Every director or officer of an insurance holding company system who
19 knowingly violates, participates in, or assents to, or who knowingly permits any of
20 the officers or agents of the insurer to engage in transactions or make investments
21 which have not been properly reported or which violate this Subpart, shall pay, in
22 their individual capacities, a civil forfeiture of not more than one thousand dollars per
23 violation, after notice and hearing before the commissioner.

24 (2) In determining the amount of the civil forfeiture, the commissioner shall
25 take into account the appropriateness of the forfeiture with respect to the gravity of
26 the violation, the history of previous violations, and such other matters as justice may
27 require.

28 * * *

29 §710. Receivership

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1 days after the close of each calendar month thereafter, if there has been a change in
2 such ownership during such month, shall file in the office of the commissioner of
3 insurance a statement, in such form as the commissioner of insurance may prescribe,
4 indicating his ownership at the close of the calendar month and such changes in his
5 ownership as have occurred during such calendar month.

6 * * *

7 §722. Securities exempt

8 The provisions of R.S. 22:715 through 717 shall not apply to such equity
9 securities of a domestic stock insurance company if either of the following apply:

10 ~~(a) such~~ (1) Such securities shall be registered; or shall be required to be
11 registered; pursuant to Section 12 of the Securities Exchange Act of 1934, as
12 amended; ~~or if.~~

13 ~~(b) such~~ (2) Such domestic stock insurance company shall not have any class
14 of its equity securities held of record by one hundred or more persons on the last
15 business day of the year next preceding the year in which equity securities of the
16 company would be subject to the provisions of R.S. 22:715 through 717 except for the
17 provisions of this ~~subsection~~ Paragraph. ~~(b)~~

18 §723. Rules and regulations

19 The ~~Commissioner~~ commissioner of ~~Insurance~~ insurance shall have the power
20 to make such rules and regulations as may be necessary for the execution of the
21 functions vested in him by R.S. 22:49, 715 through 720, and 722, and 723; and may
22 for such purpose classify domestic stock insurance companies, securities, and other
23 persons or matters within his jurisdiction. No provision of R.S. 22:715 through
24 22:717 imposing any liability shall apply to any act done or omitted in good faith in
25 conformity with any rule or regulation of the ~~Commissioner~~ commissioner of
26 ~~Insurance, insurance,~~ notwithstanding that such rule or regulation may, after such act
27 or omission, be amended or rescinded or determined by judicial or other authority to
28 be invalid for any reason.

29 * * *

1 §731. Administrative supervision; commissioner

2 A. An insurer shall be subject to administrative supervision by the
3 commissioner if upon examination or at any other time it appears in the discretion of
4 the commissioner that:

5 * * *

6 (3) The insurer has failed to comply with the applicable provisions of ~~the~~
7 ~~Louisiana Insurance~~ this Code.

8 * * *

9 §751. Commissioner of insurance to make valuation

10 * * *

11 E. ~~From and~~ On or after July 29, 1947, the reserves of industrial life insurance
12 companies and service insurance companies chartered by this state shall be
13 determined by the commissioner of insurance by applying the following reductions
14 to the reserve figures produced, in each case, by the method of computation set forth
15 in the foregoing provisions of this Section:

16 * * *

17 F. Any life insurer transacting insurance in foreign countries only and not
18 transacting insurance in any state of the United States or of the District of Columbia
19 shall calculate its reserves on insurance written on such residents of foreign countries
20 in accordance with reserve standards approved by the commissioner of insurance for
21 the state of Louisiana. Acts that would otherwise be considered the transaction of
22 insurance as that term is defined in ~~R.S. 22:1 et seq.~~, this Title shall not be considered
23 the transaction of insurance when undertaken in connection with the insurance of
24 residents of foreign countries by life insurers that only insure residents of foreign
25 countries. The mortality, interest, and other standards specified in this Section and
26 in the standard nonforfeiture law as set forth in R.S. 22:936 shall not apply to policies
27 and contracts approved for issuance only to residents of foreign countries.

28 §752. Actuarial opinion reserves

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

6 (a) For all ordinary policies of life insurance issued on the standard basis,
7 excluding any disability and accidental death benefits in such policies: the
8 Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior
9 to ~~the effective date of R.S. 22:936(E),~~ September 7, 1979, the Commissioners 1958
10 Standard Ordinary Mortality Table for such policies issued on or after ~~the effective~~
11 ~~date of R.S. 22:936(E)~~ September 7, 1979, and prior to ~~the effective date of R.S.~~
12 ~~22:936(G);~~ January 1, 1989; provided that for any category of such policies issued on
13 female risks, all modified net premiums and present values referred to in this Section
14 may be calculated according to an age not more than six years younger than the actual
15 age of the insured; and for such policies issued on or after the effective date of R.S.
16 22:168(G), the Commissioners 1980 Standard Ordinary Mortality Table, or, at the
17 election of the insurer for any one or more specified plans of life insurance, the
18 Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select
19 Mortality Factors, or any ordinary mortality table adopted after 1980, by the National
20 Association of 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 ~~the effective date~~
24 ~~of R.S. 22:936(F),~~ September 7, 1979, and for such policies issued on or after such
25 effective date the Commissioners 1961 Standard Industrial Mortality Table or any
26 industrial mortality table adopted after 1980, by the National Association of Insurance
27 Commissioners that is approved by the commissioner.

28 * * *

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(ii) For individual single premium immediate annuity contracts issued on or after September 7, 1979, excluding any disability and accidental death benefits in such contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted ~~after 1980~~, on or after January 1, 1981, by the National Association of Insurance Commissioners that is approved by the commissioner, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

(iii) For individual annuity and pure endowment contracts issued on or after September 7, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted ~~after 1980~~, on or after January 1, 1981, by the National Association of Insurance Commissioners that is approved by the commissioner, or any modification of these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

* * *

(v) For all annuities and pure endowments purchased on or after September 7, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts: the 1971 Group Annuity Mortality Table or any group annuity mortality table adopted ~~after 1980~~, on or after January 1, 1981, by the National Association of Insurance Commissioners that is approved by the commissioner, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

* * *

(3)(a) The interest rates used in determining minimum standard for the valuation of the policies and contracts listed in ~~Subparagraphs~~ Items (i), (ii), (iii), and (iv) ~~below of this Subparagraph~~ shall be the calendar year statutory valuation interest

1 rates, as defined in this Paragraph, or, at the option of the insurer, for any category of
 2 policies or contracts, the rate or rates of interest provided in Paragraphs (1) or (2) of
 3 this Subsection.

4 (i) All life insurance policies issued in a particular calendar year, on or after
 5 ~~the operative date of R.S. 22:936(G):~~ January 1, 1989.

6 (ii) All individual annuity and pure endowment contracts issued ~~in a particular~~
 7 ~~calendar year~~ on or after January 1, 1983.

8 (iii) All group annuities and pure endowments ~~purchased in a particular~~
 9 ~~calendar year~~ on or after January 1, 1983; ~~under group annuity and pure endowment~~
 10 ~~contracts.~~

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

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

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

16 2

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

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

1 annuities and guaranteed interest contracts with guarantee duration of ten years or
2 less.

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

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

10 (ii) However, if the calendar year statutory valuation interest rate for any life
11 insurance policies issued in any calendar year determined without reference to this
12 Subparagraph differs from the corresponding actual rate for similar policies issued in
13 the immediately preceding calendar year by less than one-half of one percent, the
14 calendar year statutory valuation interest rate for such life insurance policies shall
15 then be equal to the corresponding actual rate for the immediately preceding calendar
16 year. For purposes of applying this Subparagraph, the calendar year statutory
17 valuation interest rate for life insurance policies issued in a calendar year shall be
18 determined for 1980, by using the reference interest rate defined for 1979, and shall
19 be determined for each subsequent calendar year, ~~regardless of when R.S. 22:936(G)~~
20 ~~becomes effective.~~

21 * * *

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

24 * * *

25 (iii) Weighting factors for other annuities and for guaranteed interest
26 contracts, except as stated in Item (ii) above, ~~of this Subparagraph~~, shall be as
27 specified in ~~tables a., b., and c. below~~, Subitems (aa), (bb), and (cc) of this Item
28 according to the provisions in ~~d., e., and f. below~~: Subitems (dd), (ee), and (ff) of this
29 Item:

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1 ~~a. (aa)~~ For annuities and guaranteed interest contracts valued on an issue year
2 basis:

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

	Plan Type		
	<u>A</u>	<u>B</u>	<u>C</u>
11 For annuities and guaranteed interest			
12 contracts valued on a change in fund			
13 basis, the factors shown in (a) above			
14 increased by:	.15	.25	.05

15 ~~c. (cc)~~ Plan Type

	<u>A</u>	<u>B</u>	<u>C</u>
16 For annuities and guaranteed interest			
17 contracts valued on an issue year basis,			
18 other than those with no cash settlement			
19 options, which do not guarantee interest on			
20 considerations received more than one year			
21 after issue or purchase and for annuities and			
22 guaranteed interest contracts valued on a			
23 change in fund basis which do not guarantee			
24 interest rates on considerations received more			
25 than twelve months beyond the valuation date,			

1 the factors shown in ~~a. Subitem (aa)~~ or derived in ~~b. Subitem (bb)~~

2 increased by: .05 .05 .05

3 ~~c. (dd)~~ For other annuities with cash settlement options and guaranteed interest
4 contracts with cash settlement options, the guarantee duration is the number of years
5 for which the contract guarantees interest rates in excess of the calendar year statutory
6 valuation interest rate for life insurance policies with guarantee duration in excess of
7 twenty years. For other annuities with no cash settlement options and for guaranteed
8 interest contracts with no cash settlement options, the guarantee duration is the
9 number of years from the date of issue or date of purchase to the date annuity benefits
10 are scheduled to commence.

11 ~~e. (ee)~~ The plan type as used in the above tables is defined as follows:

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

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

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

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* * *

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

* * *

(b) Any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value, or a combination thereof, in an amount greater than such excess premium, the reserve according to the ~~Commissioner's reserve valuation method~~ Reserve Valuation Method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in Paragraph (8); of this Subsection be the greater of the reserve as of such policy anniversary calculated as described in the ~~preceding paragraph~~ Subparagraph (a) of this Paragraph and the reserve as of such policy anniversary calculated as described in ~~said Paragraph, that Subparagraph,~~ that Subparagraph, but with the value defined in that Subparagraph ~~(a) above~~ being reduced by fifteen percent of the amount

1 of such excess first year premium, all present values of benefits and premiums being
 2 determined without reference to premiums or benefits provided for by the policy after
 3 the assumed ending date, the policy being assumed to mature on such date as an
 4 endowment, and the cash surrender value provided on such date being considered as
 5 an endowment benefit. In making the above comparison the mortality and interest
 6 bases stated in Paragraphs (1) and (3) of this Subsection shall be used.

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

20 * * *

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

26 * * *

27 (8)

28 * * *

1 such payment, the amount of its paid-up capital stock and all its liabilities, including
2 its reinsurance reserves, computed upon a basis ~~hereinabove~~ provided; in R.S.
3 22:753, and no payments shall be made to the policyholders of any such insurer,
4 except for matured claims, and in the purchase of surrendered policies, unless its
5 assets exceed to the amount of such payments, its liabilities, including its reinsurance
6 reserves, computed as hereinabove provided.

7 B. Provided that, However, in the case of any insurer availing itself of the
8 reduction in the reserves allowed in R.S. 22:751 on funeral or cash policies, no
9 payments shall be made to its stockholders in the form of dividends or otherwise,
10 unless and until the reserve is equal to seventy-five per cent on funeral policies and
11 one hundred per cent on the cash policies and that portion of combination policies
12 providing for cash benefits, of the full reserve as computed in accordance with
13 Subsections A, B, C, and D of R.S. 22:751.

14 * * *

15 §763. Reserve for marine and transportation (inland marine) insurance

16 In the case of policies of marine or inland navigation or transportation
17 insurance the unearned premium reserve, to be charged as a liability shall be fifty ~~per~~
18 ~~cent~~ percent of the amount of the premiums upon risks covering not more than one
19 passage not terminated and shall be upon a pro rata basis for all other policies.

20 * * *

21 §768. Special reserve fund; title insurance

22 A. Each title insurer shall annually apportion to a special reserve fund an
23 amount determined by applying the rate of twenty-five cents for each one thousand
24 dollars of net increase of insurance it has in force ~~as~~ at the end of such year. Such
25 apportionment shall be continued or resumed as needed to maintain the special
26 reserve fund at an amount equal to not less than the guaranty fund deposit required
27 of the insurer.

28 B. The special reserve fund shall be held by the insurer as additional guaranty
29 fund, and shall be used only for the payment of losses after the insurer's liquid

1 resources available for the payment of losses, other than such special reserve fund or
2 the guaranty fund deposit, have been exhausted.

3 C. For the purposes of computing the special reserve fund as provided in this
4 Section, net increases of insurance in force resulting from reinsurance of the risks of
5 another title insurer shall not be included to the extent that a like special reserve fund
6 on such insurance is maintained by the ceding insurer.

7 §769. Increased reserves

8 A. If the commissioner of insurance determines that an insurer's unearned
9 premium reserves, however computed, are inadequate, he may require the insurer to
10 compute such reserves or any part thereof according to such other method or methods
11 as are prescribed in this Subpart.

12 B. If the loss experience of an insurer shows that its loss reserves, however
13 estimated, are inadequate, the commissioner of insurance shall require the insurer to
14 maintain loss reserves in such increased amount as is needed to make them adequate.

15 §770. "Loss payments"; and "loss expense" expense payments defined

16 "Loss payments" and "loss expense payments" as used with reference to
17 liability and worker's compensation insurances shall include all payments to
18 claimants, payments for medical and surgical attendance, legal expenses, salaries and
19 expenses of investigators, adjusters and claims fieldmen, rents, stationery, telegraph
20 and telephone charges, postage, salaries and expenses of office employees, home
21 office expenses, and all other payments made on account of claims, whether such
22 payments are allocated to specific claims or are unallocated.

23 §771. Actuarial certification of loss ~~reserve~~ and loss expense reserves

24 A. ~~Beginning January 1, 1997, the~~ The loss and loss expense reserves shall
25 be accompanied by a statement of the opinion of an associate or fellow of the
26 Casualty Actuarial Society or other qualified loss reserve specialist, setting forth his
27 opinion relative to the reasonableness and sufficiency of loss and loss ~~adjustment~~
28 expense reserves.

1 I. No domestic life insurance company, and no other life insurance company
 2 admitted to transact business in this state, shall be authorized to deliver within this
 3 state any contract providing benefits in variable amounts until said company has
 4 satisfied the commissioner that its condition or methods of operation in connection
 5 with the issuance of such contracts will not render its operation hazardous to the
 6 public or its policyholders in this state. In determining the qualifications of a
 7 company requesting authority to deliver such contracts within this state, the
 8 commissioner shall consider, among other things:

9 * * *

10 (3)(a) In the case of a company other than a domestic company, whether the
 11 statutes and regulations of the jurisdiction of its incorporation provide a degree of
 12 protection to policyholders and the public which is substantially equal to that provided
 13 by this section and the rules and regulations issued thereunder.

14 (b) An authorized life insurance company, whether domestic, foreign, or alien,
 15 which issues contracts providing benefits in variable amounts and which is a
 16 subsidiary of, ~~(or affiliated through common management or ownership with),~~ another
 17 life insurance company authorized to do business in this state may be deemed to have
 18 met the provisions of this subsection if either it or the parent or affiliated company
 19 meets the requirements hereof.

20 J. The insurance commissioner shall have the sole and exclusive authority to
 21 regulate the issuance and sale of such contracts and to issue such reasonable rules and
 22 regulations as may be necessary to carry out the purposes and provisions of R.S.
 23 22:781 and 914; and such contracts, the companies which issue them and the agents
 24 or other persons who sell them shall not be subject to the provisions of Part X of Title
 25 51 of the Louisiana Revised Statutes of 1950 nor to the jurisdiction of the ~~Louisiana~~
 26 commissioner of ~~securities~~; financial institutions.

27 * * *

28 §791. Exemption from franchise or capital stock tax

1 No insurer paying the ~~license~~ taxes levied under this Part shall be liable for
2 any franchise or capital stock tax.

3 §792. Annual reports

4 Each insurer issuing such contracts, shall, on or before the first day of March
5 of each year, render to the commissioner of insurance, a report signed by an officer
6 of the insurer, or if an alien insurer, by its United States resident manager, or other
7 officer in charge of its affairs in the United States, which shall certify to the amount
8 of gross annual premiums on risks located in this state for the preceding year. The
9 report shall also contain a statement of the portion of the total gross annual premiums
10 reported which arose on risks actually located within the boundaries of any parish,
11 city, town, or village in the state, which levies a ~~license~~ tax under the provisions of
12 this Part. No credit shall be taken for reinsurance. The blanks for making such report
13 shall be furnished by the commissioner of insurance.

14 §793. Investigation and enforcement by ~~Commissioner~~ commissioner of ~~Insurance~~
15 insurance

16 The commissioner of insurance shall have authority to review and examine
17 any sworn statements or accounts that may be rendered or furnished in pursuance of
18 the provisions of this Part; and he shall have authority to demand and examine the
19 books, statements, or accounts of any insurer from whom a ~~license~~ tax may be due
20 and to take such proceedings before any court of competent jurisdiction by rule or
21 otherwise, against any insurer from whom a ~~license~~ tax may be due as may be
22 necessary to enforce a full and fair compliance with the provisions of this Part.

23 §794. Cost of collection and supervision

24 The commissioner of insurance is authorized to withhold from the funds
25 collected under this Part, ~~the~~ a sum ~~of~~ not to exceed ninety thousand dollars per
26 annum to defray the expense of collecting taxes imposed by, and of enforcing this
27 Part, and for the operation of the insurance department.

28 §795. Disposition of collections

1 The ~~above~~ deposit required by R.S. 22:801 shall be conditioned only for, and
2 dedicated exclusively to, the prompt payment of all claims arising and accruing to any
3 person by virtue of any policy issued by any such insurer upon the life or person of
4 any citizen of the state of Louisiana, or upon any property or other risk situated in this
5 state. Under no circumstances shall such deposit be used for the payment of any fee
6 whatsoever to any attorney, agent, or other person appointed for any services rendered
7 in connection with any ancillary conservation, ancillary receivership, or any other
8 supervisory proceeding or mode involving the company making such deposit.

9 * * *

10 §809. Registered policies; deposit

11 A. Any ~~domestic~~ life insurer ~~and any foreign or alien life insurer~~ doing
12 business in this state, may annually deposit with the commissioner of insurance for
13 the common benefit of its life, annuity, and endowment policies or any separate class
14 or special kind thereof, securities including evidence of ownership of real estate of the
15 kinds in which, by the laws of this state, it is permitted to invest or loan its funds,
16 equal to the legal reserve on all such outstanding policies in force, including also all
17 funds held in trust for deferred or installment payments, as shown by its last annual
18 statement to the commissioner of insurance, as required by law, which securities shall
19 be held by the commissioner of insurance in trust for the purposes and objects herein
20 specified. For the ~~purpose~~ purposes of this Section, the securities ~~hereinabove~~
21 referred to in this Subsection shall include trust receipts or certificates of deposit,
22 with right to substitution, issued by any depository bank in this state or any savings
23 and loan association chartered to do business in this state which has been selected by
24 the insurer with the approval of the commissioner of insurance, as trustee of the kinds
25 of securities in which the insurer may invest in accordance with R.S. 22:581 through
26 R.S. 22:596. The commissioner of insurance may cause any such securities to be
27 appraised and valued prior to their being deposited with, or conveyed to, the
28 commissioner of insurance in trust as aforesaid, the reasonable expense of such
29 appraisement or valuation to be paid by the insurer. Insofar as any depository bank,

1 which issues such trust receipts or certificates of the deposit of such securities shall
2 be concerned, the certificates of the insurer as to the value and validity of such
3 securities shall be conclusive.

4 * * *

5 §821. Fees

6 ~~The following fees and licenses shall be collected in advance:~~

7 A. ~~By the secretary of state, the~~ The fee for filing the power of attorney: shall
8 be collected in advance by the secretary of state.

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

11 (1) Fee to accompany application for initial
12 certificate of authority, insurer, and rating
13 organization \$ 2,500.00

14 (2) An annual financial regulation fee from every
15 health maintenance organization and domestic
16 and foreign company for examination and
17 analysis of its financial condition \$ 1,000.00

18 (3) For producers' licenses:

19 (a) Life, health, and accident producer;
20 variable annuity producer
21 First time applicant \$ 75.00
22 Additional or renewal company
23 appointment (yearly) \$ 20.00
24 Producer renewal fee (every ~~2~~ two years) \$ 50.00

25 (b) Property and casualty producer:
26 First time applicant \$ 75.00
27 Additional or renewal company
28 appointment (yearly) \$ 20.00
29 Producer renewal fee

1	(every 2 <u>two</u> years)	\$ 50.00
2	(c) Limited lines producer	
3	First time applicant	\$ 75.00
4	Each additional line of authority	\$ 35.00
5	Additional or renewal company	
6	appointment (yearly)	\$ 20.00
7	Renewal fee (every 2 <u>two</u> years)	\$ 50.00
8	(d) Limited lines credit insurance producer	
9	First time applicant	\$ 75.00
10	Additional or renewal company	
11	appointment (yearly)	\$ 20.00
12	Renewal fee (every 2 <u>two</u> years)	\$ 50.00
13	(e) Surplus lines broker	
14	First time applicant	\$ 250.00
15	Renewal fee (yearly)	\$ 175.00
16	(f) Fee for failure to file producer	
17	license renewal timely (per license)	\$ 50.00
18	(g) Fee for duplicate producer license	\$ 15.00
19	(4) For certified copies of any documents, per page	\$.25
20	(5) Repealed by Acts 2007, No. 404, §2.	
21	(6) For Securities Fees <u>securities fees</u>	
22	Registration of Securities-Minimum	\$ 25.00
23	<u>Registration of securities-minimum</u>	<u>\$ 25.00</u>
24	Registration of Securities-Maximum	\$ 200.00
25	<u>Registration of securities-maximum</u>	<u>\$ 200.00</u>
26	(1/20 of 1% <u>one percent</u> of the aggregate price)	
27	Registration of Dealer <u>dealer</u>	\$ 50.00
28	Registration of Salesman <u>salesman</u>	\$ 10.00
29	(7) Repealed by Acts 2001, No. 460, §2, eff. Jan. 1, 2002.	

- 1 (8) For filing a charter, other documents, and
- 2 amendments thereto \$ 25.00
- 3 (9) For each company filing of
- 4 self-insured health and accident
- 5 insurance policy forms, per product \$ 100.00
- 6 (10) (a) For each company filing of property
- 7 and casualty insurance policy forms,
- 8 per product \$ 100.00
- 9 (b) For each company filing to adopt a
- 10 reference or item filing of advisory
- 11 organization's form reference filing
- 12 (not applicable to service purchasers,
- 13 who must file the actual forms as
- 14 shown above) \$ 20.00
- 15 (c) For each company filing of property
- 16 and casualty insurance policy
- 17 endorsements, amendments, or riders \$ 25.00
- 18 (11) (a) For each company filing of life,
- 19 health, and accident insurance policy
- 20 forms or health maintenance
- 21 organization subscriber agreements,
- 22 per product \$ 100.00
- 23 (b) For each company filing of Medicare
- 24 supplement insurance premium rates,
- 25 rating schedule, and supporting
- 26 documentation, per type of standard
- 27 benefit plan \$ 100.00
- 28 (c) For each company filing of Medicare
- 29 supplement insurance advertisements,

- 1 per submission \$ 100.00
- 2 (12) For certification of a self-insured worker's
- 3 compensation insurance program, an
- 4 initial certification fee \$ 1,500.00
- 5 (13) For review of a self-insured worker's
- 6 compensation insurance program, an
- 7 annual review fee \$ 300.00
- 8 (14) Managing general agents
- 9 (a) Initial registration \$ 300.00
- 10 (b) Annual registration \$ 300.00
- 11 (c) Insurer's initial notice of appointment \$ 300.00
- 12 (d) Insurer's annual notice of appointment \$ 300.00
- 13 (15) Third party administrators
- 14 (a) Licensing fee \$ 500.00
- 15 (b) Annual report filing fee \$ 300.00
- 16 (16) Fee to accompany the statement required
- 17 in an acquisition of control or merger
- 18 with a domestic insurer \$ 2,500.00
- 19 (17) ~~Approval~~ Fee to accompany application for
- 20 approval of foreign or alien surplus
- 21 lines insurers \$ 1,050.00
- 22 (18) (a) Registration of a risk purchasing group \$ 100.00
- 23 (b) Annual renewal of registration for a
- 24 risk purchasing group \$ 50.00
- 25 (19) For viatical settlement licenses:
- 26 (a) Viatical settlement broker:
- 27 First time applicant \$ 50.00
- 28 Annual renewal \$ 50.00
- 29 (b) Viatical settlement investment agent:

1	First time applicant	\$ 50.00
2	Annual renewal	\$ 50.00
3	(c) Viatical settlement provider	
4	First time applicant	\$ 1,000.00
5	(20) For filing viatical settlement contracts,	
6	disclosure notices, and advertising	
7	materials, per filing: \$	100.00
8	(21) For the initial registration of a risk retention group	\$ 1,000.00
9	(22) For acceptance of service of process when	
10	the commissioner is appointed as agent	
11	for a nonresident licensee or a foreign or	
12	alien entity \$	25.00
13	(23) For claims adjuster licenses and registrations:	
14	(a) Business entity	
15	First time applicant \$	55.00
16	Renewal fee (every two years)	\$ 50.00
17	(b) Resident and nonresident	
18	First time applicant	\$ 55.00
19	Renewal fee (every two years)	\$ 50.00
20	(c) Catastrophe and emergency	
21	claims adjuster \$ 25.00	
22	(24) For public adjuster licenses:	
23	(a) Business entity	
24	First time applicant	\$ 55.00
25	Renewal fee (every two years)	\$ 50.00
26	(b) Resident and nonresident	
27	First time applicant \$	55.00
28	Renewal fee (every two years)	\$ 50.00
29	(25) For a certificate of compliance	\$ 10.00

1 (26) For each filing of vehicle mechanical breakdown
2 insurance policies, per submission \$ 25.00

3 (27) For each filing of property residual value insurance
4 policies, per submission \$ 25.00

5 C. The commissioner of insurance is authorized to withhold the funds
6 collected under Subparagraph (B)(3)(g) of this Section.

7 D. The commissioner of insurance is authorized to withhold the funds
8 collected under Paragraphs (1) and (2) of Subsection B of this Section to defray the
9 cost of ~~printing and mailing~~ examination of insurers pursuant to Chapter 8 of this
10 Title and processing of the annual reports and premium tax forms as required by R.S.
11 22:571 and R.S. 22:792 subject to all annual budgetary requirements of the state of
12 Louisiana.

13 E. The fees stated herein shall supersede any statement of fees in any
14 individual section of the Code.

15 F. However, any Louisiana domestic insurer owned exclusively by Louisiana
16 residents or by a corporation that is owned exclusively by Louisiana residents shall
17 be exempt from paying fees provided for under ~~Subparagraphs~~ Paragraph (B)(3)(a)
18 ~~and (b)(i)~~ of this Section, only as it relates to additional or renewal company
19 appointment (yearly). Each insurer applying for exemption of fees, under this
20 Section, shall file with the Louisiana Department of Insurance a notarized affidavit
21 certifying the ownership of the insurer as being owned exclusively by Louisiana
22 residents or by a corporation that is owned exclusively by Louisiana residents.

23 G. The commissioner may, after notice and hearing, promulgate such rules
24 and regulations as may be necessary and proper to carry out the provisions of this
25 Section. Such rules and regulations shall be promulgated and adopted in accordance
26 with the Administrative Procedure Act.

27 * * *

28 §831. Fire, marine, transportation, casualty, surety, or other insurance

1 A.(1) Upon the business of issuing policies, contracts, or other forms of
2 obligations covering the risk of fire, marine, transportation, surety, fidelity,
3 indemnity, guaranty, workers' compensation, employers' liability, property damages,
4 livestock, vehicle, automatic sprinkler, burglary, or insurance of any other kind
5 whatsoever in this state not otherwise provided for in this Part, the minimum annual
6 ~~license~~ tax shall be one hundred eighty-five dollars when the gross annual premiums
7 shall be six thousand dollars or less; and when the gross annual premiums shall be
8 more than six thousand dollars, the amount of ~~license~~ tax payable shall be increased
9 to three hundred dollars for each additional ten thousand dollars, or fraction thereof,
10 of gross annual premiums. The business of issuing each of the kinds of insurance or
11 contracts mentioned in this Section may be combined under one ~~license~~ tax, and the
12 amount of the ~~license~~ tax shall be based on the combined gross annual premiums of
13 all such businesses.

14 ~~(2)(a) After June 30, 2002, this This tax shall be paid on a quarterly basis;~~
15 ~~basis. however, the first payment shall include the amount which would have been~~
16 ~~paid in previous quarters of 2002 had the increase provided by Acts 2002, No. 83,~~
17 ~~been in effect as of January 1, 2002.~~

18 ~~(b) There is hereby created in the state treasury the Risk Management~~
19 ~~Insurance Premium Payment Fund. The treasurer shall deposit into the Risk~~
20 ~~Management Insurance Premium Payment Fund, five million seven hundred fifty~~
21 ~~thousand dollars from taxes collected under the provisions of this Section in Fiscal~~
22 ~~Year 2001-2002 that are in excess of actual collections under the provisions of this~~
23 ~~Section in Fiscal Year 2000-2001, after first having credited such tax collections to~~
24 ~~the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of~~
25 ~~the Louisiana Constitution. Monies in the Risk Management Insurance Premium~~
26 ~~Payment Fund shall be used solely for the purpose of paying premiums to the Office~~
27 ~~of Risk Management as determined by the legislature through appropriation.~~

28 ~~(c)(i) There is hereby created in the state treasury the Excess Revenue~~
29 ~~Collection Fund. The treasurer shall deposit into the Excess Revenue Collection Fund~~

1 any taxes collected under the provisions of this Section in Fiscal Year 2001-2002, in
2 excess of actual collections under the provisions of this Section in Fiscal Year
3 2000-2001, after first having been credited to the Bond Security and Redemption
4 Fund as required by Article VII, Section 9(B) of the Louisiana Constitution, amounts
5 as provided in Items (ii) and (iii) of this Subparagraph. Monies in the Excess
6 Revenue Collection Fund shall be used in amounts appropriated by the legislature
7 solely for the purpose of meeting any increase in employer contributions required
8 over and above the statutory minimum set forth in R.S. 11:103(C)(2)(b)(i) for the
9 fiscal year beginning July 1, 2002, for employer contributions of the Firefighters'
10 Retirement System notwithstanding the rate as established by the Public Retirement
11 Systems Actuarial Committee for Fiscal Year 2002-2003. These funds shall be
12 applied on a monthly basis until such appropriation is exhausted, after which direct
13 employer contributions shall be made at the rate set by the Public Retirement Systems
14 Actuarial Committee.

15 (ii) ~~Four million five hundred thousand dollars shall be deposited in the~~
16 ~~Excess Revenue Collection Fund after satisfying the requirements of Subparagraph~~
17 ~~(b) of this Paragraph.~~

18 (iii) ~~An amount not to exceed four million five hundred thirty- six thousand~~
19 ~~dollars shall be deposited in the Excess Revenue Collection Fund after satisfying the~~
20 ~~requirements of Item (ii) of this Subparagraph; provided that this allocation shall only~~
21 ~~be made if actual collections from taxes, licenses, and fees from all sources~~
22 ~~comprising the Official Forecast for Fiscal Year 2001-2002 exceed the Official~~
23 ~~Forecast for Fiscal Year 2001-2002 adopted by the Revenue Estimating Conference~~
24 ~~on April 30, 2002, and only if actual collections exceed the forecast by the amount~~
25 ~~deposited as required by this Item.~~

26 ~~(d)~~ B. There is hereby created in the state treasury the Louisiana State Police
27 Salary Fund. Monies in the Louisiana State Police Salary Fund shall be used in
28 amounts appropriated by the legislature to cover the cost of salary increases and
29 related benefits for members of the state police service. Taxes collected under the

1 provisions of this Section in Fiscal Year 2002-2003 and ensuing fiscal years that are
2 in excess of total collections under the provisions of this Section in Fiscal Year 2000-
3 2001, after first having been credited to the Bond Security and Redemption Fund as
4 required by Article VII, Section 9(B) of the Louisiana Constitution, shall be deposited
5 into the Louisiana State Police Salary Fund until the amount deposited in each fiscal
6 year is equal to fifteen million six hundred thousand dollars.

7 ~~(e) The provisions of Subparagraphs (b) and (c) of this Paragraph shall be~~
8 ~~null, void, and of no effect after July 1, 2003.~~

9 ~~B. For the year 1984 the amount of the license tax payable pursuant to this~~
10 ~~Section shall be based on the rate in effect at the time the premiums were collected;~~
11 ~~that is, for 1984 the minimum annual license tax shall be one hundred eighty dollars~~
12 ~~when the gross annual premiums are six thousand dollars or less; when the gross~~
13 ~~annual premiums are more than six thousand dollars, the amount of license tax~~
14 ~~payable shall be increased to one hundred eighty-five dollars for each additional ten~~
15 ~~thousand dollars, or fraction thereof, of gross premiums collected before July 1, 1984~~
16 ~~and shall be increased to three hundred dollars for each additional ten thousand~~
17 ~~dollars, or fraction thereof, of gross premiums collected on or after July 1, 1984.~~

18 §832. Reduction of tax when certain investments are made in Louisiana

19 A. The amount of the license tax payable shall be reduced from the amount
20 otherwise fixed in this Part if the payer files a sworn statement with the annual report
21 required by this Part showing as of December thirty-first of the reporting period that
22 at least the following amounts of the total admitted assets of the payer, less assets in
23 an amount equal to the reserves on its policies issued in foreign countries in which it
24 is authorized to do business and which countries require an investment therein as a
25 condition of doing business, are invested and maintained in qualifying Louisiana
26 investments as hereinafter defined in Subsection C of this Section.

27 B. If one-sixth of the total admitted assets of the payer are in qualifying
28 Louisiana investments, then the license tax payable shall be thirty-three and one-third
29 percent of the amount otherwise fixed in this Part; if at least one-fifth of the total

1 admitted assets of the payer are in qualifying Louisiana investments, then the ~~license~~
 2 tax payable shall be twenty-five percent of the amount otherwise fixed in this Part;
 3 if at least one-fourth of the total admitted assets of the payer are in qualifying
 4 Louisiana investments, the ~~license~~ tax payable shall be fifteen percent of the amount
 5 otherwise fixed in this Part; and if at least one-third of the total admitted assets of the
 6 payer are in qualifying Louisiana investments, then the ~~license~~ tax payable shall be
 7 five percent of the amount otherwise fixed in this Part.

8 * * *

9 §833. Authorization of local ~~license~~ taxes; penalties for nonpayment

10 A. Any municipal or parochial corporation in the state shall have the right to
 11 impose a ~~license~~ tax on any insurer engaged in the business of issuing any form of
 12 insurance policy or contract, which may now or hereafter be subject to the payment
 13 of any ~~license~~ tax for state purposes, as provided in this Part, as follows:

14 (1) On any insurer engaged in the business of issuing life or accident or health
 15 insurance policies, other than programs of benefits authorized or provided pursuant
 16 to the provisions of Parts I and II of Chapter 12 of Title 42 of the Louisiana Revised
 17 Statutes of 1950, or other forms of contracts or obligations covering such risks, or
 18 issuing endowment or annuity policies, or contracts, or other similar forms of contract
 19 obligations in consideration of the payment of a premium or other consideration for
 20 the issuance of such policies, contracts, or obligations, whether such insurer is
 21 operating in this state through an agent or other representative or otherwise, not more
 22 than ten dollars on gross annual premiums up to two thousand dollars, and the
 23 additional ~~license~~ tax thereafter shall not be more than seventy dollars on each ten
 24 thousand dollars, or fraction thereof, of gross annual premiums in excess of two
 25 thousand dollars. ~~Provided that~~ However, the maximum ~~license~~ tax on such
 26 businesses, payable to such municipal or parochial corporation by any one insurer,
 27 shall not exceed twenty-one thousand dollars.

28 (2) On any insurer, engaged in the business of issuing policies, contracts, or
 29 other forms of obligations covering the risk of fire, marine, transportation, surety,

1 fidelity, indemnity, guaranty, worker's compensation, employers' liability, property
2 damage, ~~live stock~~, livestock, vehicle, automatic sprinkler, burglary, or insurance
3 business of any other kind whatsoever in this state, whether such insurer is operating
4 in this state through ~~agents~~ producers or other representatives or otherwise, not more
5 than the following:

6 (a) 1st Class: When the gross receipts are not more than two thousand
7 dollars, the ~~license~~ tax shall not exceed forty dollars;

8 (b) 2nd Class: When the gross receipts are more than two thousand dollars,
9 and not more than four thousand dollars, the ~~license~~ tax shall not exceed sixty dollars;

10 (c) 3rd Class: When the gross receipts are more than four thousand dollars,
11 and not more than six thousand dollars, the ~~license~~ tax shall not exceed eighty dollars;

12 (d) 4th Class: When the gross receipts exceed six thousand dollars, the
13 additional ~~license~~ tax thereafter shall not be more than seventy dollars for each ten
14 thousand dollars, or fraction thereof, in excess of six thousand dollars.

15 B. The maximum ~~license~~ tax on such businesses, payable to such municipality
16 or parochial corporation by any insurer, shall not exceed nine thousand dollars.
17 Provided, that:

18 (1) Plate glass and steam boiler inspection insurers shall pay only one-third
19 of the above rates provided in Paragraph (A)(2) of this ~~Subsection~~. Section.

20 (2) The amount of ~~license~~ tax payable to any municipal or parochial
21 corporation as fixed in this Section shall be one-third of the amount so fixed if the
22 payer shall file a sworn statement with the annual report required by this Part,
23 showing that at least one-sixth of the total admitted assets of the payer, are invested
24 and maintained in qualifying Louisiana investments as defined in R.S. 22:832(C).

25 (3) The total ~~license~~ tax payable by an insurer to a parish shall be calculated
26 on the total direct premiums written by such insurer for risks located within
27 unincorporated areas of such parish. The total ~~license~~ tax payable by an insurer to a
28 municipality shall be calculated on the total direct premiums written by such insurer
29 for risks located within such municipality. Such premiums shall not be subject to

1 taxation by both the parish and the municipality. Such premiums shall not be subject
2 to taxation by more than one parish or municipality.

3 C.(1) In case of any failure to make a report or to make payment of ~~license~~
4 tax as required by this Section, before June first of any year in which it is due, a
5 penalty of five percent per month shall be added to the amount of tax due and payable
6 to the municipal or parochial corporation along with the tax due. The municipal or
7 parochial corporation may waive the payment of the penalty if it finds that failure to
8 pay was due to some unforeseen or unavoidable reason, other than mere neglect.

9 * * *

10 §834. Local ~~license~~ taxes; contracts for collection; confidentiality of records

11 * * *

12 B.(1) In accordance with the duty as collector, LaMATS shall have access to
13 any information regarding local ~~license~~ taxes deemed necessary by the commissioner
14 of insurance or the Department of Insurance if such access is necessary or proper for
15 the enforcement of the laws of this state or of a political subdivision of this state.

16 (2) Except as otherwise provided by law, the records and files of LaMATS,
17 as the contractually authorized collector of local ~~license~~ taxes, which are maintained
18 pursuant to the local tax ordinances are confidential and privileged, and no person
19 shall divulge or disclose any information obtained from such records and files except
20 in the administration and enforcement of the tax laws of this state or of a political
21 subdivision of this state.

22 * * *

23 §835. Fire marshal tax; Louisiana Fire Marshal Fund

24 A. There is hereby levied an additional tax of one and one-fourth percent of
25 the gross annual premium receipts from any business which insures property of any
26 nature or description against loss or damage by fire, less return premiums on all
27 insurers doing business in the state which insure property of any nature or description
28 against loss or damage by fire. This tax shall be paid by all such insurers to the
29 commissioner of insurance when paying their annual ~~license~~ taxes under this Part, and

1 the commissioner of insurance shall refuse to issue a license to any insurer failing or
2 refusing to pay this additional tax.

3 * * *

4 C. After compliance with the requirements of Article VII, Section 9(B) of the
5 Constitution of Louisiana, relative to the Bond Security and Redemption Fund, and
6 prior to monies being placed in the state general fund, an amount equal to that
7 deposited as required by Subsection B ~~hereof~~ of this Section shall be credited to a
8 special fund hereby created in the state treasury to be known as the "Louisiana Fire
9 Marshal Fund". The monies in this fund shall be used solely as provided by
10 Subsection D of this Section and only in the amounts appropriated by the legislature.
11 All unexpended and unencumbered monies in the fund at the end of the fiscal year
12 shall revert to the state general fund. The monies in the fund shall be invested by the
13 treasurer in the same manner as monies in the state general fund, and interest earned
14 on the investment of these monies shall be credited to the state general fund, again,
15 following compliance with the requirement of Article VII, Section 9(B) relative to the
16 Bond Security and Redemption Fund.

17 * * *

18 §838. Imposition of tax; exceptions

19 A. There is hereby levied an annual ~~license tax for the year 1982, and for each~~
20 ~~subsequent year,~~ on each ~~domestic, foreign, and alien~~ admitted insurer engaged in the
21 business of issuing insurance policies, contracts, or obligations; issuing endowment
22 policies; or similar forms of contract obligations in consideration of the payment of
23 a premium or other consideration for the issuance of such policies, contracts, or
24 obligations, whether such insurer be operating in this state through an agent, other
25 representative, or otherwise. Such ~~license tax~~ tax shall be fixed and graded according to
26 the rates and classifications set forth in this Part and shall be based on the gross
27 amount of annual premiums on all risks, except annuity contracts, located in this state
28 and, in the case of insurance and endowment policies, contracts, or obligations, upon

1 the gross amount of annual premiums on such policies issued to persons located in
2 Louisiana, without deduction for dividends paid or credited to policyholders.

3 B. The life insurance programs administered by the Office of Group Benefits
4 as authorized and provided for pursuant to the provisions of Part II of Chapter 12 of
5 Title 42 of the Louisiana Revised Statutes of 1950, R.S. 42:821 et seq., shall be
6 exempt and excepted from the payment of the annual ~~license~~ tax levied by the
7 provisions of this Section.

8 §839. Certain ~~non-profit~~ nonprofit mutual associations declared charitable
9 institutions

10 Any domestic ~~non-profit~~ nonprofit mutual association, the net earnings of
11 which do not inure to the benefit of any individual, which is engaged exclusively in
12 the business of furnishing hospital service, medical, or surgical benefits, so that such
13 services or benefits are furnished to those of the public who become subscribers of
14 the plan, and at least a majority of whose directors or managing officers are
15 administrators, trustees, or members of the clinical staffs or advisory boards of ~~non-~~
16 profit nonprofit hospitals having contracts with the association, or are licensed doctors
17 of medicine who are members of their parish medical society and of the Louisiana
18 State Medical Society is declared to be a charitable and beneficial institution. As
19 such, its receipts, surplus, and reserves are exempt from all forms of taxation by the
20 state or any of its political ~~sub-divisions,~~ subdivisions, taxes on the real estate and the
21 office equipment owned by the association, and the ~~license fee~~ fee provided for in R.S.
22 22:840. This exemption from taxation applies to any form of taxation, licenses, fees,
23 or assessments which has heretofore or which may hereafter become due the state or
24 any of its political subdivisions.

25 §840. ~~License fee;~~ Fee; filing of charter and ~~by-laws~~ bylaws and annual affidavit;
26 certificate

27 Any association of the type described in R.S. 22:839 which desires to take
28 advantage of the tax exemption granted therein shall pay an annual ~~license~~ fee of two
29 hundred ~~and~~ fifty dollars to the commissioner of insurance and shall furnish him with

1 a certified copy of its charter and ~~by-laws~~ bylaws and, annually, on or before the first
 2 day of March, an affidavit signed by its president and secretary, showing the names
 3 and addresses of all of its directors or managing officers and the ~~non-profit~~ nonprofit
 4 hospitals or medical societies which a majority of the directors represent. Upon
 5 payment of the ~~license~~ fee by the association and approval of the affidavit by the
 6 commissioner of insurance, the latter official shall furnish the association with a
 7 certificate under seal of his office, certifying that the association is exempt from all
 8 taxes, ~~licenses~~, fees, or assessments due to the state or to any of its political
 9 subdivisions, except the payment of the annual ~~license~~ fee of two hundred ~~and~~ fifty
 10 dollars.

11 * * *

12 §842. Life, accident, health, or service insurance

13 A. Upon the business of issuing life, accident, health, or service insurance
 14 policies, or other forms of contracts or obligations covering such risks, or issuing
 15 endowment policies on contracts, or other similar forms of contract obligations, the
 16 minimum annual ~~license~~ tax shall be one hundred forty dollars when the gross annual
 17 premiums are seven thousand dollars or less. When the gross annual premiums are
 18 more than seven thousand dollars, the amount of ~~license~~ tax payable shall be
 19 increased to two hundred twenty-five dollars for each additional ten thousand dollars,
 20 or fraction thereof, of gross annual premiums. The business of issuing each of the
 21 kinds of insurance or contracts mentioned in this Section may be combined under one
 22 ~~license~~ tax, and the amount of the ~~license~~ tax shall be based on the combined gross
 23 annual premiums of all such businesses.

24 B. ~~For the year 1984 the amount of license tax payable pursuant to this~~
 25 ~~Section shall be based on the rate in effect at the time the premiums were collected;~~
 26 ~~that is, for 1984 the minimum annual license tax shall be one hundred forty dollars~~
 27 ~~when the gross annual premiums are seven thousand dollars or less; when the gross~~
 28 ~~annual premiums are more than seven thousand dollars, the amount of the license tax~~
 29 ~~payable shall be increased to one hundred seventy dollars for each additional ten~~

1 basis. The amount of the ~~license~~ taxes due on or before the fifteenth day of the month
2 following the end of the quarter shall be equal to one-fourth of the total previous
3 year's tax. At the end of the calendar year, the fourth quarter's report shall be adjusted
4 to compensate for overpayments or underpayments of the tax based on that current
5 year's gross receipts of taxable premiums and shall be due on or before March first
6 of the following year and each year thereafter. Nothing herein contained shall be
7 construed as relieving any insurer from paying to the commissioner of insurance the
8 fees otherwise required or levied by law for qualifying to do business, or for the
9 renewal thereof annually, or for agents' certificates of authority required by law. The
10 legislative auditor may review any report submitted by an insurer for the payment of
11 ~~license~~ taxes levied under the provisions of this Part.

12 ~~B. Notwithstanding the provisions of Subsection A of this Section, for the~~
13 ~~period July 1, 1984 through December 31, 1984 and the payment due on or before~~
14 ~~October 15, 1984, the amount of the license taxes due at the end of each quarter shall~~
15 ~~be equal to one-fourth of the total previous year's tax plus an amount equal to~~
16 ~~one-fourth of the additional amount which would have been due had the premiums~~
17 ~~collected during calendar year 1983 been taxed at the rates as provided in R.S. 22:842~~
18 ~~and 831 as amended in 1984. Notwithstanding the provisions of Subsection A of this~~
19 ~~Section, for the period January 1, 1985 through December 31, 1985 and commencing~~
20 ~~with the payment due on or before April 15, 1985, the amount of license taxes due at~~
21 ~~the end of each quarter shall be equal to one-fourth of the amount which would have~~
22 ~~been payable for the previous year had the provisions of R.S. 22:842 and 831 as~~
23 ~~amended in 1984 been effective for the entirety of 1984. At the end of the 1984~~
24 ~~calendar year, the report for the fourth quarter shall be adjusted to compensate for~~
25 ~~overpayments or underpayments of the tax based on the gross receipts of taxable~~
26 ~~premiums for 1984 and based upon rates as provided in R.S. 22:842(B) and R.S.~~
27 ~~22:831(B).~~

28 §846. Penalty on delinquent tax; revocation of authority to do business after thirty
29 days' delinquency

1 A. In case of any failure to make a report or to make payment of ~~license~~ tax
2 as required by this Chapter, a penalty of five percent if one to thirty days late, of ten
3 percent if thirty-one to sixty days late, of fifteen percent if sixty-one to ninety days
4 late, of twenty percent if ninety-one to one hundred twenty days late, or of twenty-five
5 percent if more than one hundred twenty days late, shall be added to the amount of
6 tax due and payable to the commissioner of insurance along with the tax due, unless
7 evidence to his satisfaction is submitted to the commissioner to show that the failure
8 was due to some unforeseen or unavoidable reason, other than mere neglect.

9 B. If the delinquency is for more than thirty days after the due date of the
10 report or after the due date for payment of ~~license~~ taxes hereunder, neglect will be
11 presumed and the penalty shall be added without any discretion on the part of the
12 commissioner of insurance. After the lapse of thirty days, until the report is filed and
13 the delinquent ~~license tax~~ paid, the commissioner of insurance shall revoke the
14 authority of the delinquent taxpayer, and of all of said taxpayer's ~~agents~~ producers to
15 do business in this state.

* * *

17 §971.1. Regulation of health insurers

18 A. In addition to any other authority granted by this Title, the Department of
19 Insurance is hereby authorized to regulate the coordination of medical, surgical, and
20 hospital benefits of a self-insurance plan with such benefits of any other insurance
21 plan. For purposes of this Subsection, a self-insurance plan shall be defined as any
22 plan by a person, partnership, corporation or other organization, or the state of
23 Louisiana, other than a domestic or foreign insurance company which has qualified
24 with the Department of Insurance, which provides or contracts to provide coverage
25 as a self-insurer for his or its employees, stockholders, or any other persons. This
26 Subsection shall not apply to: (1) the Office of Group Benefits; or (2) any plan of a
27 labor organization or fraternal organization to the extent that it provides benefits to
28 its members or the immediate family of its members, which benefits are supplemental
29 to an employer-sponsored benefit plan.

1 B.(1) Notwithstanding any other provision of law to the contrary, any entity
2 issuing or providing coverage in this state for health care services, whether the
3 coverage is by direct payment of or reimbursement for expenses incurred for such
4 services, or otherwise, shall be presumed to be subject to the jurisdiction of the
5 commissioner of insurance, unless the entity shows that, while providing the
6 coverage, it is subject to the jurisdiction of another department or agency of the state,
7 or any political subdivision of this state, or of the federal government.

8 (2) An entity providing or issuing coverage for health care services in this
9 state as described in Paragraph (1) of this Subsection may show that it is subject to
10 the jurisdiction of another department or agency of this state, any political subdivision
11 of this state, or the federal government by submitting to the commissioner of
12 insurance the appropriate certificate, license, or other document or documentary
13 evidence issued by such other governmental entity that authorizes or qualifies it to
14 issue or provide such coverage.

15 (3) Proof of jurisdiction by such other governmental agency shall be
16 submitted to the commissioner of insurance prior to the issuance or provision in this
17 state of any coverage as described in this Subsection. The commissioner of insurance
18 may take any action as may be authorized in this Title to enforce the provisions of this
19 Subsection.

20 (4) Any entity that fails to show that it is subject to the jurisdiction of any
21 other governmental entity as described in this Subsection shall be subject to all
22 appropriate provisions of this Title and shall submit to an examination by the
23 commissioner of insurance to determine its organization and solvency and whether
24 it is in compliance with the applicable provisions of this Title.

25 Section 2. R.S.22:15, 22, 49, 64(C), 65(5) and (7), 169, 246(D), 261, 435(B)(5),
26 454(E), 469(D), 487, 497, 554(E), 584(A)(16), 595, 724, 751(E)(5), and 753(B)(2)(b) are
27 hereby repealed in their entirety.

28 Section 3. The Louisiana State Law Institute is hereby directed to redesignate R.S.
29 22:20 as R.S. 22:1566.

DIGEST

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

HB No.

Abstract: ABSTRACT

(Amends CITE)