



LOUISIANA DEPARTMENT OF INSURANCE
TIMOTHY J. TEMPLE
COMMISSIONER

July 1, 2024

The Honorable Cameron Henry
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Phillip R. DeVillier
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.housespeaker@legis.la.gov

The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.s-ins@legis.la.gov

The Honorable Michael "Gabe" Firment
Chairman of the House Insurance Committee
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.h-ins@legis.la.gov

RE: Summary Report – Regulation 85—Valuation of Life
Insurance Policies

Dear President Henry, Speaker DeVillier, Senator Talbot, and Representative
Firment:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:966(D)(1)(b), and announces its intention to finalize Regulation 85, which was published as a Notice of Intent in the May 2024 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI intends to submit Regulation 85 to the Office of the State Register for final publication in the August 2024 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:966(D)(1)(c).

Enclosure: Notice of Intent to Promulgate Regulation 85 — Valuation of Life Insurance
Policies

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., June 10, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 18—Non-Profit Funeral Service Associations, Reinstatement of Lapsed Policies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amended rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being repealed because La. R.S. 22:196 provides current guidance regarding lapsed policies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amended rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed repeal of the rule will have no costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed repeal to the rule does not affect competition and employment in the state.

Lance Herrin
Deputy Commissioner
2405#022

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 85—Valuation of Life Insurance Policies (LAC 37:XIII.Chapter 109)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 85.

The purpose of the amendment to Regulation 85 is to incorporate changes to the general calculation requirements for basic reserves and premium deficiency reserves that were made to NAIC Model Regulation #830.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 109. Regulation Number 85—Valuation of Life Insurance Policies

§10909. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves

A. - B.3.a. ...

b. X is such that, when using the valuation interest rate used for basic reserves, Clause i is greater than or equal to Clause ii:

i. the actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

ii. the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

c. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

d. the appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Paragraph B.3;

e. the appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of Paragraph B.3; and

f. the appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums;

g. if X is less than 100 percent at any duration for any policy, the following requirements shall be met:

i. the appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in

conformance with the requirements of §2111 of Regulation 47;

ii. The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

iii. the appointed actuary shall annually opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of Paragraph B.3. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience;

B.4. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2552 (October 2005), amended LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary

Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

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Public Comments

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Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., June 10, 2024.

Timothy J. Temple
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 85
Valuation of Life Insurance Policies**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amended rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being amended to incorporate changes to the general calculation requirements for basic reserves and premium deficiency reserves that were made in the NAIC Model Regulation #830.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amended rule will have no impact on economic costs or benefits to directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

Lance Herrin
Deputy Commissioner
2405#021

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Insurance
Office of the Commissioner**

**Regulation 89—Suitability in Annuity Transactions
(LAC 37:XIII.Chapter 117)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 89—Suitability in Annuity Transactions. The purpose of the amendments to Regulation 89 is to implement the provisions of Act No. 73 of the 2023 Regular Session and to adopt changes made to date to the National Association of Insurance Commissioners' Suitability in Annuity Transactions Model Regulation.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 117. Regulation Number 89—Suitability in
Annuity Transactions**

§11701. Purpose

A. The purpose of this regulation is to require producers, as defined in this regulation, to act in the best interest of the consumer when making a sale or recommendation of an annuity and to require insurers to establish and maintain a system to supervise annuity recommendations and sales so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation or to subject a producer to civil liability under the best interest standard of care outlined in §11711 or under standards governing the conduct of a fiduciary or a fiduciary relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50:

§11703. Scope

A. This regulation shall apply to any sale or recommendation of an annuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50:

§11705. Authority

A. This regulation is promulgated under the authority of R.S. 22:11, R.S. 22:919, and R.S. 22:1576(B)(10).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50:

§11707. Exemptions

A. - A.2.b. ...

c. a government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

d. ...

3. settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

4. formal prepaid funeral contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.