

1. The sale of insurance not in conjunction with a rental transaction is prohibited by the provisions of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:933 (April 2005).

§10313. Insurance Charges

A. Notwithstanding any other provision of this Part or any rule adopted by the commissioner, a limited licensee pursuant to Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq., shall not be required to treat monies collected from renters purchasing such insurance when renting vehicles as funds received in a fiduciary capacity, provided that the charges for coverage shall be itemized and be ancillary to a rental transaction. The sale of insurance not in conjunction with a rental transaction is prohibited by the provisions of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:934 (April 2005).

§10315. Penalties for Violations

A. In the event that any provision of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq., or other applicable provision of this Title is violated by a limited licensee, the commissioner may revoke, suspend, refuse to renew, or levy a fine not to exceed \$1,000 for each violation, up to \$100,000 in the aggregate for all violations in a calendar year per limited licensee, or impose such other penalty as the commissioner may deem necessary or convenient to carry out the purpose of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:934 (April 2005).

§10317. Applicability

A. All limited licensees under Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq shall be subject to all other applicable provisions of this Title unless specifically exempted by Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 31:934 (April 2005).

§10319. Severability

A. If any provision or item of this regulation, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the

regulation, which can be given effect without the invalid provisions, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 31:934 (April 2005).

Chapter 105. Regulation Number 83—Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations

§10501. Definitions

A. When used in this regulation, the term:

Agent—a national bank, state bank, trust company or broker/dealer that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or treasury direct systems, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *agent* may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

Clearing Corporation—a corporation, as defined in Section 8-102(a)(5) of the Uniform Commercial Code, that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *clearing corporation* may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301.

Custodian—

a. a national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities

used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *custodian* may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or

b. a broker/dealer that shall be a member of the National Association of Security Dealers, registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, has an agency office in this state and has a tangible net worth equal to or greater than \$250,000,000.

Custodied Securities—securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Equity Securities System (TRADES) or treasury direct systems.

Securities' Certificate—has the same meaning as that defined in Section 8-102(a)(16) of the Uniform Commercial Code.

Security—has the same meaning as that defined in Section 8-102(a)(15) of the Uniform Commercial Code.

Tangible Net Worth—shareholders equity, less intangible assets, as reported in the broker/dealer's most recent annual or transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (S.E.C. Form 10-K) filed with the Securities and Exchange Commission.

Treasury/Reserve Automated Debt Entry Securities System (TRADES) and Treasury Direct—the book entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301. The operation of TRADES and treasury direct are subject to 31 C.F.R. pt. 357 et seq.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1092 (May 2005).

§10503. Custody Agreement; Requirements

A. An insurance company may, by written agreement with a custodian, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.

B. The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement shall comply with the following.

1. Securities' certificates held by the custodian shall be held separate from the securities' certificates of the custodian and of all of its other customers.

2. Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent.

3. All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.

4. Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in Section 22:1021 of this insurance law shall, to the extent required by that Section, be under the control of the Louisiana Department of Insurance and shall not be withdrawn by the insurance company without the approval of the Louisiana Department of Insurance.

5. The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at times and containing information reasonably requested by the insurance company. If applicable, the custodian's trust committee's annual reports of its review of the insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.

6. During the course of the custodian's regular business hours, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.

7. The custodian and its agents shall be required to maintain and make available to the insurance company as it may reasonably request:

a. reports which they receive from a clearing corporation on their respective systems of internal accounting control; and

b. reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities.

8. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in an audit of the financial statements of the insurance company.

9. The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form attached to this regulation, with respect to custodied securities.

10. A national bank, state bank or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the Securities Investor Protection Corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.

11. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction.

12. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in Paragraph 11 above, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from the loss of securities. Such indemnification does not apply to nor protect against losses from any change in the market value of custodied securities.

13. The agreement may provide that the custodian will not be liable for a failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.

14. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian. However, if the agent shall be subject to regulation under the laws of a jurisdiction that is different from the jurisdiction the laws of which regulate the custodian, the commissioner of insurance of the

state of domicile of the insurance company may accept a standard of liability applicable to the agent that is different from the standard of liability applicable to the custodian.

15. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if 100 percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three business days of the receipt by the custodian of the insurer's written notice of termination or within three business days of the withdrawal of 100 percent of the account assets.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1093 (May 2005).

§10505. Deposit with Affiliates; Requirements

A. Nothing in this regulation shall prevent an insurance company from depositing securities with another insurance company with which the depositing insurance company is affiliated, provided that the securities are deposited pursuant to a written agreement authorized by the board of directors of the depositing insurance company or an authorized committee thereof and that the receiving insurance company is organized under the laws of one of the states of the United States of America or of the District of Columbia. If the respective states of domicile of the depositing and receiving insurance companies are not the same, the depositing insurance company shall have given notice of the deposit to the insurance commissioner in the state of its domicile and the insurance commissioner shall not have objected to it within 30 days of the receipt of the notice.

B. The terms of the agreement shall comply with the following.

1. The insurance company receiving the deposit shall maintain records adequate to identify and verify the securities belonging to the depositing insurance company.

2. The receiving insurance company shall allow representatives of an appropriate regulatory body to examine records relating to securities held subject to the agreement.

3. The depositing insurance company may authorize the receiving insurance company:

a. to hold the securities of the depositing insurance company in bulk, in certificates issued in the name of the receiving insurance company or its nominee, and to commingle them with securities owned by other affiliates of the receiving insurance company; and

b. to provide for the securities to be held by a custodian, including the custodian of securities of the receiving insurance company or in a clearing corporation.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1094 (May 2005).

§10507. Custodian Affidavit—Form A

CUSTODIAN AFFIDAVIT

(For use by a custodian where securities entrusted to its care have not been redeposited elsewhere.)

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation");

That his or her duties involve supervision of activities as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That the schedule attached hereto is a true and complete statement of securities (other than those caused to be deposited with The Depository Trust Company or like entity or a Federal Reserve Bank under the TRADES or Treasury Direct systems) which were in the custody of the corporation for the account of the insurance company as of the close of business on _____; that, unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were then either attached to coupon bonds or in the process of collection; and that, unless otherwise shown on the schedule, all such securities were in bearer form or in registered form in the name of the insurance company or its nominee or of the corporation or its nominee, or were in the process of being registered in such form;

That the corporation as custodian has the responsibility for the safekeeping of such securities as that responsibility is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
 before me this ____ day
 of _____, 20____
 _____ (L.S.)
 Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10509. Custodian Affidavit—Form B

CUSTODIAN AFFIDAVIT

(For use in instances where a custodian corporation maintains securities on deposit with the Depository Trust Company or like entity.)

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation");

That his or her duties involve supervision of activities of the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That the corporation has caused certain of such securities to be deposited with _____ and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the corporation was custodian as of the close of business on _____, and which were so deposited on such date;

That the corporation as custodian has the responsibility for the safekeeping of the securities both in the possession of the corporation or deposited with _____ as is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
 before me this ____ day
 of _____, 20____
 _____ (L.S.)
 Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10511. Custodian Affidavit—Form C

CUSTODIAN AFFIDAVIT

(For use where ownership is evidenced by book entry at a Federal Reserve Bank.)

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____.

a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation");

That his or her duties involve supervision of activities of the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ with a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That it has caused certain securities to be credited to its book entry account with the Federal Reserve Bank of _____ under the TRADES or Treasury Direct systems; and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the corporation was custodian as of the close of business on _____, which were in a "general" book entry account maintained in the name of the corporation on the books and records of the Federal Reserve Bank of _____ at such date;

That the corporation has the responsibility for the safekeeping of such securities both in the possession of the corporation or in the "general" book entry account as is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to

before me this _____ day

of _____, 20_____

_____ (L.S.)

Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

Chapter 107. Regulation Number 84—Recognition and Use of the 2001 CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

§10701. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §163.B(1)(a) and the Standard Nonforfeiture Law for Life Insurance, see Title 22 §168.G(8)(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 31:2541 (October 2005).

§10703. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with R.S. 22:163.B(1)(a) (the Standard Valuation Law for Life Insurance), R.S. 22:168.G(8)(f) (the Standard Nonforfeiture Law for Life Insurance) and Sections 10909.A and Sections 10909.B of Regulation 85.

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 31:2541 (October 2005).

§10705. Definitions

2001 CSO Mortality Table—that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

2001 CSO Mortality Table (F)—that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2001 CSO Mortality Table (M)—that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

Composite Mortality Tables—mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

Smoker and Nonsmoker Mortality Tables—mortality tables with separate rates of mortality for smokers and nonsmokers.

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 31:2541 (October 2005).

§10707. 2001 CSO Mortality Table

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may