

*Annual Statement*—the annual financial statement required to be filed by insurers with the commissioner.

*Insurer*—an insurer authorized to write property and/or casualty insurance under the laws of any state and includes, but is not limited to, fire and marine companies, general casualty companies, local mutual aid societies, statewide mutual assessment companies, mutual insurance companies other than life, farm mutual insurance companies, county mutual insurance companies, Lloyd's plans, reciprocal and interinsurance exchanges, captive insurance companies, risk retention groups, stipulated premium insurance companies, and non-profit legal service corporations.

Qualified Actuary—a person who:

a. meets the basic education, experience and continuing education requirements of the Specific Qualification Standard for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement, as set forth in the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States (U.S. Qualifications Standards), promulgated by the American Academy of Actuaries (Academy) and as adopted in Chapter 161 of this Part;

b. has obtained and maintains an Accepted Actuarial Designation; and

c. is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct promulgated by the Academy, requires adherence to the U.S. Qualification Standards, and participates in the Actuarial Board for Counseling and Discipline when its members are practicing in the U.S.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:904.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992), amended LR 47:52 (January 2021).

### §707. Content

A. The "Statement of Actuarial Opinion" shall be in the format of and contain the information required by §12 of the Annual Statement Instructions:Property and Casualty.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:904.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992).

### §709. Exemptions

A. Companies subject to this regulation may apply for an exemption. If an exemption is granted, a certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized to do business. An exemption may be applied for solely on the following grounds.

#### 1. Automatic Exemption

a. An insurer, otherwise subject to this regulation, that has less than \$1,000,000 total direct plus assumed written premiums during a calendar year or that has less than a total of 1,000 policyholders and certificate holders at the end of a calendar year, in lieu of the certification required for

the calendar year, may submit an affidavit, under oath of an officer of the insurer, that specifies that amount of direct, plus assumed, premiums written and the total number of policyholders and certificate holders.

b. An insurer who intends to file for an exemption under §709 must submit a letter of intent to its domiciliary commissioner no later than December 1 of the calendar year for which the exemption is to be claimed. The commissioner may deny the exemption prior to December 31 of the same year if he deems the exemption inappropriate. If an insurer intends to file for an exemption for calendar year 1991, it must do so no later than January 31, 1992.

#### 2. Exemption for Insurers under Supervision or Conservatorship

a. Unless ordered by the domiciliary commissioner, an insurer that is under supervision or conservatorship pursuant to statutory provision is exempt from the filing requirement contained herein.

#### 3. Exemption for Nature of Business

a. An insurer otherwise subject to this regulation and not eligible for an exemption as enumerated above may apply to its domiciliary commissioner for an exemption based on the nature of the business written. This exemption is available to those companies writing property lines only.

#### 4. Financial Hardship Exemption

a. An insurer otherwise subject to this regulation and not eligible for any of the exemptions enumerated above may apply to the commissioner for a financial hardship exemption.

b. Financial hardship is presumed to exist if the projected reasonable cost of the certification would exceed the lesser of:

i.1 percent of the insurer's capital and surplus reflected in the insurer's annual statement filed with the department for the calendar year for which the exemption is sought; or

ii.3 percent of the insurer's net direct plus assumed premiums written during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with its domiciliary commissioner.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:904.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992).

## Chapter 9.Regulation 40—Summary Document and Disclaimer and Notice of Noncoverage

### §901. Purpose

A. The purpose of Regulation 40 is to implement the Louisiana Life and Health Insurance Guaranty Association Law as set forth in R.S. 22:2081 et seq., which is designed to protect covered persons against the risk of insurer insolvencies under certain life, health, or annuity policies or

contracts.

B. The purpose of the documents, designated in §903 as exhibit A and exhibit B, is to give notice to the insurance-buying consumer that the Louisiana Life and Health Insurance Guaranty Association Law includes restrictions as to coverage, and in some instances excludes coverage for certain types of policies or contracts, and includes substantial limitations as to the amounts which may be reimbursed in the event of the insolvency of the insurer.

**AUTHORITYNOTE:** Promulgated in accordance with R.S. 22:2, 11, and 2098.

**HISTORICALNOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

### §903. Applicability and Scope

A. Regulation 40 applies to the Louisiana Life and Health Insurance Guaranty Association (LLHIGA) as created by R.S. 22:2085 and its member insurers as defined by R.S. 22:2084.

B. Exhibit A, which follows hereto and is made a part hereof, sets forth the form and content of the summary document, as approved by the commissioner of insurance, summarizes the coverage provided by the Louisiana Life and Health Insurance Guaranty Association Law, and includes a disclaimer statement which is to be placed conspicuously on the front of the summary document. Pursuant to R.S. 22:2098(B), the summary document with the disclaimer is to be delivered with each life, health, or annuity policy or contract, described in R.S. 22:2083(B)(1), issued or delivered in Louisiana.

C. Exhibit B, which follows hereto and is made a part hereof, sets forth the notice of noncoverage required by R.S. 22:2098(D). It is required to be delivered with each life, health, or annuity policy or contract described in R.S. 22:2083(B)(1) and excluded from coverage under R.S. 22:2083(B)(2).

**AUTHORITYNOTE:** Promulgated in accordance with R.S. 22:2, 11, and 2098.

**HISTORICALNOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

### §905. Form and Content

A. The summary document and disclaimer shall be in a form which complies with §907, exhibit A, which follows hereto and forms a part of Regulation 40.

B. The notice of noncoverage shall be in a form which complies with §909, exhibit B, which follows hereto and forms a part of Regulation 40.

**AUTHORITYNOTE:** Promulgated in accordance with R.S. 22:2, 11 and 2098.

**HISTORICALNOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

### §907. Exhibit A—Summary of the Louisiana Life and

### Health Insurance Guaranty Association Act and Notice Concerning Coverage Limitations and Exclusions

A. Residents of Louisiana who purchase life insurance, annuities, or health insurance should know that the insurance companies licensed in this state to write these types of insurance are required by law to be members of LLHIGA. The purpose of LLHIGA is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this happens, LLHIGA will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state, and in some cases, to keep coverage in force. However, the valuable extra protection provided by these insurers through LLHIGA is limited. As noted in the disclaimer below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

B. Except as provided in R.S. 22:2098(D), when an insurer delivers a policy or contract described in R.S. 22:2083(B)(1), then prior to or at the time of delivery, the disclaimer notice described in R.S. 22:2098(C) and approved by the commissioner, shall be given separately to the policy or contract holder:

#### Disclaimer

The Louisiana Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. **COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY.** Even if coverage is provided, there are significant limits and exclusions. Coverage is generally conditioned upon residence in this state. Other conditions may also preclude coverage.

Insurance companies and insurance agents are prohibited by law from using the existence of the association or its coverage to sell you an insurance policy. You should not rely on the availability of coverage under the Louisiana Life and Health Insurance Guaranty Association when selecting an insurer.

The Louisiana Life and Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document.

LLHIGA	Department of Insurance
P.O. Drawer 44126	P. O. Box 94214
Baton Rouge, LA 70804	Baton Rouge, LA 70804-9214

C. The state law that provides for this safety-net coverage is called the Louisiana Life and Health Insurance Guaranty Association Law (the law), and is set forth at R.S. 22:2081 et seq. The following is a brief summary of this law's coverages, exclusions and limits. This summary does not cover all provisions of the law; nor does it in any way change any person's rights or obligations under the law or the rights or obligations of LLHIGA.

D. Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a direct non-group life, health, or annuity policy or contract, a certificate under a direct group policy or contract for a supplemental contract to any of these, or an

unallocated annuity contract, issued by an insurer authorized to conduct business in Louisiana. The beneficiaries, payees or assignees of insured persons may also be protected as well even if they live in another state unless they are afforded coverage by the guaranty association of another state, or other circumstances described under the law are applicable.

#### E. Exclusions from Coverage

1. A person who holds a direct non-group life, health, or annuity policy or contract, a certificate under a direct group policy or contract for a supplemental contract to any of these, or an unallocated annuity contract is not protected by LLHIGA if:

a. he is eligible for protection under the laws of another state (This may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insureds who live outside that state.);

b. the insurer was not authorized to do business in this state;

c. his policy was issued by a profit or nonprofit hospital or medical service organization, an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, an insurance exchange, an organization that issues charitable gift annuities as is defined in R.S. 22:952(A)(3), or any entity similar to any of these.

2. LLHIGA also does not provide coverage for:

a. any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;

b. any policy of reinsurance (unless an assumption certificate was issued);

c. interest rate or crediting rate yields, or similar factors employed in calculating changes in value, that exceed an average rate;

d. dividends, premium refunds, or similar fees or allowances described under the Law;

e. credits given in connection with the administration of a policy by a group contract holder;

f. employers', associations' or similar entities' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them) or uninsured;

g. unallocated annuity contracts (which give rights to group contract holders, not individuals), except unallocated annuity contracts and defined contribution government plans qualified under section 403(b) of the United States *Internal Revenue Code* (26 U.S.C. §403(b)).

h. an obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the policy owner or contract owner, including but not limited to, claims described under the law;

i. a policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to "Medicare Part C coverage" or "Medicare Part D coverage" and any regulations issued pursuant to those parts;

j. interest or other changes in value to be determined by the use of an index or other external references but which have not been credited to the policy or contract or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer, whichever is earlier.

#### F. Limits on Amounts of Coverage

1. The Louisiana Life and Health Insurance Guaranty Association Law also limits the amount that LLHIGA is obligated to pay out.

2. The benefits for which LLHIGA may become liable shall in no event exceed the lesser of the following.

a. LLHIGA cannot pay more than what the insurance company would owe under a policy or contract if it were not an impaired or an insolvent insurer.

b. For any one insured life, regardless of the number of policies or contracts there are with the same company, LLHIGA will pay a maximum of \$300,000 in life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance.

c. For any one insured life, regardless of the number of policies or contracts there are with the same company, LLHIGA will pay a maximum of \$500,000 in health insurance benefits, and LLHIGA will pay a maximum of \$250,000 in present value of annuities, including net cash surrender and net cash withdrawal values.

3. In no event, regardless of the number of policies and contracts there were with the same company, and no matter how many different types of coverages, LLHIGA shall not be liable to expend more than \$500,000 in the aggregate with respect to any one individual.

AUTHORITYNOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICALNOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

#### §909. Exhibit B—Notice of Noncoverage

A. When an insurer or agent delivers a policy or contract described in R.S. 22:2083(B)(1) that is excluded from coverage by R.S. 22:2083(B)(2), then prior to or at the time of such delivery, the following notice shall be given separately to the policy or contract holder:

The Policy Or Contract You Are Purchasing Is Not Covered  
By The Louisiana Life And Health Insurance Guaranty  
Association.

Coverage is specifically excluded by law for the type of policy  
or contract you are purchasing.

AUTHORITYNOTE: Promulgated in accordance with R.S.

22:2, 11 and 2098.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1940 (November 2016).

### §911. Severability

A. If any Section or provision of Regulation 40 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 40 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 40 and the application to any persons or circumstances are severable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:2, 11 and 2098.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:1940 (November 2016).

## Chapter 11. Regulation 42—Group Self-Insurance Funds

**Editor's Note:** In the 1995 Louisiana legislative regular session, Act 703 enacted Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:1195 through 1200.1, and repealed R.S. 23:1191 through 1194, relative to group self-insurance funds. In the 2007 Louisiana legislative regular session, Act 384 enacted R.S. 23:1191 to provide definitions. In Regulation 42, any reference in the authority note to R.S. 23:1193 should be replaced with 23:1200.1 and any reference in the body of Regulation 42 to R.S. 23:1191, 1192, 1193 and 1194 should be replaced with R.S. 23:1195 et seq.

### §1101. Definitions

A. When used in this regulation, the following words or terms shall have the meaning as described in §1101.

**Administrator**—an individual, partnership, or corporation engaged by a group self-insurance fund to carry out the policies of the trustees of the fund and to provide day-to-day management of the fund.

**Aggregate Losses**—the amount of all claims, including reserves for loss development and losses incurred but not reported, which exceeds the loss fund.

**Contingent Liability**—the amount that a self-insurance fund may be obligated to pay in excess of a given fund year's normal premium collected or on hand.

**Fiscal Agent**—an individual, partnership, or corporation engaged by a self-insurance fund to carry out the fiscal policies of the fund, invest and disburse assets, and oversee the financial matters of the fund. An administrator may be a fiscal agent.

**Gross Premium**—premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) times the manual premium rates approved by the commissioner.

**Group Self-Insurance Fund or Fund**—employers who enter into agreements to pool their workers compensation

liabilities in accordance with Louisiana Revised Statutes 23:1191-1193.

**Incurred but not Reported Reserves**—a reserve established which estimates the incurred loss of claims whose existence is unknown by the fund or claims which have been reported but not recorded on the books of the fund.

**Loss Development**—the change in incurred loss from one point in time to another.

**Loss Development Reserve**—any amount needed in a given fund year, in addition to current loss reserves, to fund future loss development.

**Loss Fund**—the retention under the terms of an aggregate excess contract, or if no aggregate excess is purchased, the amount remaining from normal premium in each fund year after all necessary expenses are paid.

**Normal Premium**—standard premium less allowed discount.

**Qualified Actuary**—a person who:

a. meets the basic education, experience and continuing education requirements of the Specific Qualification Standard for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement, as set forth in the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States (U.S. Qualifications Standards), promulgated by the American Academy of Actuaries (Academy) and as adopted in Chapter 161 of this Part;

b. has obtained and maintains an Accepted Actuarial Designation; and

c. is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct promulgated by the Academy, requires adherence to the U.S. Qualification Standards, and participates in the Actuarial Board for Counseling and Discipline when its members are practicing in the U.S.

**Standard Premium**—gross premium plus or minus applicable experience debits or credits.

**Surplus**—assets of a fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1195.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR 47:52 (January 2021).

### §1103. Application to Create a Group Self-Insurance Fund

A. All applications to create a group self-insurance fund shall meet the requirements of R.S. 23:1191-1193, any other applicable laws of the state of Louisiana, and this regulation.

B. Applications shall be made in writing on a form acceptable to the commissioner.