

Regular Session, 2010

ACT No. 375

HOUSE BILL NO. 463

BY REPRESENTATIVE KLECKLEY

1 AN ACT

2 To amend and reenact R.S. 22:851(A), 852(B), 853(B), 854(A), 855(A)(1), (B)(1) and (2)(a)
3 and (b), (C), (D)(2), (G), and (H), 856(introductory paragraph), 857, 860(A) and
4 (B)(introductory paragraph), 861(B) and (F), 862(2) and (5), 863(A), 864(B)(4), (5),
5 and (8), and (C), 865(introductory paragraph) and (1), 866, 867, 868(A)(introductory
6 paragraph) and (1) and (B), 871, 875 through 878, 879(introductory paragraph) and
7 (2) and (3), 880, 882(1) through (5), 883(C)(5)(c) and (d), 884, 885(A), (C), and (D),
8 886, 887(A)(introductory paragraph) and (1)(b) and (2), (B), (D)(1), (E), (G)(2), and
9 (H), and 888(B)(1) and (2), (C), (D), and (E), relative to technical recodification of
10 certain provisions of the Louisiana Insurance Code relative to general insurance
11 policy requirements, including correction of citations, updates of terms and language,
12 reorganization of provisions, elimination of obsolete or ineffective provisions, and
13 harmonizing of inconsistent provisions; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 22:851(A), 852(B), 853(B), 854(A), 855(A)(1), (B)(1) and (2)(a) and
16 (b), (C), (D)(2), (G), and (H), 856(introductory paragraph), 857, 860(A) and (B)(introductory
17 paragraph), 861(B) and (F), 862(2) and (5), 863(A), 864(B)(4), (5), and (8), and (C),
18 865(introductory paragraph) and (1), 866, 867, 868(A)(introductory paragraph) and (1) and
19 (B), 871, 875 through 878, 879(introductory paragraph) and (2) and (3), 880, 882(1) through
20 (5), 883(C)(5)(c) and (d), 884, 885(A), (C), and (D), 886, 887(A)(introductory paragraph)
21 and (1)(b) and (2), (B), (D)(1), (E), (G)(2), and (H), and 888(B)(1) and (2), (C), (D), and (E)
22 are hereby amended and reenacted to read as follows:

23 §851. Scope of Part

24 A. The applicable provisions of this Part shall apply to insurance other than
25 ocean marine and foreign trade insurances. This Part shall not apply to life insurance

1 policies or annuities not issued for delivery in this state nor delivered in this state.
 2 This Part also shall not apply to any health and accident insurance policy not issued
 3 for delivery in this state nor delivered in this state, except for any group policy
 4 covering residents of Louisiana, regardless of ~~from~~ where it was issued or delivered.

5 * * *

6 §852. Power to contract

7 * * *

8 B. A minor not less than fifteen years of age as at nearest birthday may,
 9 notwithstanding such minority, contract for life or health and accident insurance for
 10 his own benefit or for the benefit of his father, mother, spouse, child, brother, sister,
 11 or grandparent, or any person with an insurable interest and may exercise all rights
 12 and powers with respect to or under the contract as though of full legal age, and may
 13 surrender his interest therein and give a valid discharge for any benefit accruing or
 14 money payable thereunder. The minor shall not, by reason of his minority, be
 15 entitled to rescind, ~~avoid~~, void, or repudiate the contract, or any exercise of a right
 16 or privilege thereunder; except, that such minor, not otherwise emancipated, shall not
 17 be bound by any unperformed agreement to pay, by promissory note or otherwise,
 18 any premium on any such insurance contract.

19 §853. Insurable interest required; property insurances

20 * * *

21 B. "Insurable interest" as used in this ~~Section~~ Chapter means any lawful and
 22 substantial economic interest in the safety or preservation of the subject of the
 23 insurance free from loss, destruction, or pecuniary damage.

24 §854. Interest of the insured

25 A. When the name of a person intended to be insured is specified in the
 26 policy, such insurance can be applied only to his own proper interest. This Section
 27 shall not apply to life, annuity, ~~and or~~ health and accident ~~insurances~~; insurance.

28 * * *

1 §855. Quoted premium shall include all charges; dollar amount required

2 A. The premium quoted by the insurer shall be a specific dollar amount
3 which shall be inclusive of all fees, charges, premiums, or other consideration
4 charged for the insurance or for the procurement thereof, except that:

5 (1) In any subsequent modification of the policy, the insurer may require that
6 evidence of insurability be furnished at the insured's expense;

7 * * *

8 B.(1) No insurer or its officer, employee, ~~agent, broker, solicitor,~~ producer
9 or other representative shall charge or receive any fee, compensation, or
10 consideration for insurance which is not included in the premium quoted to the
11 insured and the premium specified in the policy delivered to the insured, except for
12 the premium tax on a surplus lines policy which shall be separately stated, and
13 except for reimbursement for expenses due the ~~agent,~~ producer, and except for an
14 agency fee, if any, as authorized hereunder.

15 (2)(a) The ~~agent~~ producer may receive reimbursement from the insured for
16 expenses incurred by the ~~agent~~ producer directly related to the insurance coverage
17 for the insured. In addition, the ~~agent~~ producer may charge a reasonable agency fee
18 related to the services provided by the ~~agent.~~ producer. Any reimbursement or
19 agency fee shall be itemized separately on an invoice statement. A single invoice
20 may be used to make known all charges. Each such charge must be prominently
21 disclosed and itemized separately on the invoice.

22 (b) The reimbursement for expense and agency fees shall not be considered
23 premium for any purpose, nor shall they be subject to premium taxes or surplus lines
24 premium taxes. Agency fees for criminal bail bond, ~~or~~ homeowners insurance, or
25 personal automobile insurance that are standard risks insurable at standard rates shall
26 not exceed twenty-five dollars.

27 * * *

28 C. Each policy delivered to the insured shall have the full and accurate dollar
29 amount of the premium disclosed on the policy, which shall be inclusive of all fees,
30 charges, premiums, or other consideration charged for the insurance or for the

1 procurement thereof, except that, in any subsequent modification of the policy, the
2 insurer may require that evidence of insurability be furnished at the insured's
3 expense, and except that the premium tax on a surplus lines policy shall be separately
4 stated, and except for reimbursement of expenses and agency fees as authorized in
5 Paragraph (B)(2): of this Section.

6 D.

7 * * *

8 (2) In this Subsection, a person who procures the preparation of any
9 document specified in Paragraph (1) of this Subsection includes a person who
10 knowingly permits the preparation of such a document to be done or participated in
11 by a subordinate or employee, whether or not that person directly ordered or caused
12 the subordinate or employee to prepare the document. It shall not include a person
13 furnishing typing, reproducing, or providing other clerical or mechanical assistance
14 with respect to a document.

15 * * *

16 G. The commissioner may assess one or more of the following penalties
17 against any person who violates the provisions of this Section:

18 (1) A fine in an amount not greater than five thousand dollars;

19 (2) A suspension of an insurer's certificate of authority or ~~an agent's,~~
20 ~~broker's, or solicitor's~~ a producer's license, ~~or.~~

21 (3) A revocation of an insurer's certificate of authority or ~~an agent's, broker's,~~
22 ~~or solicitor's~~ a producer's license.

23 H. The provisions of this Section shall apply to all policies except life;
24 ~~accident, health, annuity, health and accident,~~ and reinsurance policies.

25 §856. Application for insurance required

26 No life, annuity, or health and accident insurance contract upon an individual,
27 except a contract of group life insurance or of group or blanket health and accident
28 insurance as defined in this Code, shall be made or effectuated unless at the time of
29 the making of the contract the individual insured, being of competent legal capacity

1 to contract, in writing applies therefor or consents thereto, except in the following
2 cases:

3 * * *

4 §857. Application as evidence; life, annuity, or health and accident insurance

5 A. No application for life, annuity, or health and accident insurance shall be
6 admissible in evidence in any action relative to the policy or contract, unless a
7 correct copy of the application was attached to or otherwise made a part of the
8 policy, or contract, when issued and delivered. This provision shall not apply to
9 policies or contracts of industrial insurance subject to R.S. 22:149(2) and 975(A)(1).

10 B. If any policy of life, annuity, or health and accident insurance delivered
11 in this state is reinstated or renewed, and the insured or the beneficiary or assignee
12 of the policy makes written request to the insurer for a copy of the application, if any,
13 for such reinstatement or renewal, the insurer shall, within fifteen days after receipt
14 of such request at its home office or at any of its branch offices, deliver or mail to the
15 person making such request, a copy of such application. If such copy is not so
16 delivered or mailed, the insurer shall be precluded from introducing the application
17 as evidence in any action or proceeding based upon or involving the reinstatement
18 or renewal of the policy.

19 * * *

20 §860. Warranties and misrepresentations in negotiation; applications

21 A. Except as provided in Subsection B of this Section, ~~and R.S. 22:1314,~~ and
22 ~~R.S. 22:1315,~~ no oral or written misrepresentation or warranty made in the
23 negotiation of an insurance contract, by the insured or in his behalf, shall be deemed
24 material or defeat or void the contract or prevent it attaching, unless the
25 misrepresentation or warranty is made with the intent to deceive.

1 B. In any application for life, annuity, or health and accident insurance made
 2 in writing by the insured, all statements therein made by the insured shall, in the
 3 absence of fraud, be deemed representations and not warranties. The falsity of any
 4 such statement shall not bar the right to recovery under the contract unless either one
 5 of the following is true as to the applicant's statement:

6 * * *

7 §861. Approval of forms

8 * * *

9 B. Every such filing shall be made not less than forty-five days in advance
 10 of any such issuance, delivery, or use. At the expiration of forty-five days, the form
 11 so filed shall be deemed approved unless prior thereto it has been affirmatively
 12 approved or disapproved by order of the commissioner of insurance. The
 13 commissioner of insurance may extend by not more than an additional fifteen days
 14 the period within which he may so affirmatively approve or disapprove any such
 15 form, by giving notice of such extension before expiration of the initial ~~thirty-day~~*
 16 forty-five-day period. At the expiration of any such period as so extended, and in the
 17 absence of such prior affirmative approval or disapproval, any such form shall be
 18 deemed approved. The commissioner of insurance may withdraw any such approval
 19 at any time for cause. Approval of any such form by the commissioner of insurance
 20 shall constitute a waiver of any unexpired portion of such initial fifteen-day waiting
 21 period.

22 * * *

23 F. Insurers negotiating with and insuring special commercial entities shall
 24 be exempt from the form filing and approval requirements of this Section. The
 25 commissioner shall adopt rules and regulations necessary for the implementation of
 26 this Subsection including a provision defining special commercial entities which
 27 qualify for exemption. The definition of exempt commercial policyholder shall be
 28 reviewed periodically by the commissioner. This Subsection shall apply only to
 29 commercial property and casualty insurance. The regulations required by this
 30 Subsection shall be ~~adopted no later than April 1, 2000.~~ issued by the commissioner.

1 §862. Grounds for disapproval

2 The commissioner of insurance shall disapprove any such form of policy,
3 application, rider, or endorsement, or withdraw any previous approval thereof, only:

4 * * *

5 (2) If it does not comply with any controlling filing ~~theretofore~~ previously
6 made and approved.

7 * * *

8 (5) If purchase of insurance ~~thereunder~~ is being solicited by deceptive
9 advertising.

10 * * *

11 §863. Standard provisions

12 A. Insurance contracts shall contain such standard provisions as are required
13 by the applicable chapters of this Code pertaining to contracts of particular kinds of
14 insurance. The commissioner of insurance may waive the required use of a
15 particular standard provision other than the provisions required in Subpart C of Part
16 IV of ~~Chapter 4 of this Title~~ this Chapter in a particular insurance contract form if:
17 both of the following apply:

18 (1) ~~He~~ The commissioner finds such provision unnecessary for the protection
19 of the insured; and inconsistent with the purposes of the contract; ~~and.~~

20 (2) The contract is otherwise approved by ~~him:~~ the commissioner.

21 * * *

22 §864. Content of policies in general

23 * * *

24 B. A policy shall specify and conform to the following:

25 * * *

26 (4) The time at which the insurance ~~thereunder~~ takes effect and the period
27 during which the insurance is to continue.

28 (5) A statement of the premium, other than as to surety bonds, and if other
29 than life, annuity, accident or health, or title insurance, the premium rate.

30 * * *

1 (8) Every printed portion of the text ~~matter~~ of the policy and of any
 2 endorsements or attached papers is printed in type the size of which shall be uniform
 3 and the face of which shall not be ~~not~~ less than ten-point type. The text ~~matter~~ shall
 4 include all printed matter except the name and address of the insurer, name or title
 5 of the policy, captions, sub-captions, and form numbers.

* * *

7 C. If under the contract the exact amount of premiums is determinable only
 8 at termination or at periodic intervals of the contract, a statement of the basis and
 9 rates upon which the final premium is to be determined and paid shall be ~~furnished~~
 10 provided any policy examining bureau having jurisdiction or to the insured upon
 11 request.

* * *

13 §865. Additional contents

14 A policy may contain additional provisions, which are not inconsistent with
 15 this Code, and which are; either:

16 (1) Required to be ~~so~~ inserted by the laws of the insurer's state of domicile;
 17 or,

* * *

19 §866. Articles of incorporation; ~~by-law~~ bylaw provisions

20 No policy shall contain any provision purporting to make any portion of the
 21 articles of incorporation, ~~by-laws~~, bylaws, or other constituent document of the
 22 insurer a part of the contract unless such portion is set forth in full in the policy. Any
 23 policy provision in violation of this Section shall be invalid.

24 §867. Must contain entire contract with exceptions

25 A. No agreement in conflict with, modifying, or extending the coverage of
 26 any contract of insurance shall be valid unless it is in writing and physically made
 27 a part of the policy or other written evidence of insurance, or it is incorporated in the
 28 policy or other written evidence of insurance by specific reference to another policy
 29 or written evidence of insurance. This Section shall not apply to contracts as
 30 provided in Subpart C of Part IV of this Chapter, ~~4 of this Title~~.

1 B. The provisions of this Section shall apply where a policy or other written
2 evidence of insurance is coupled by specific reference with another policy or written
3 evidence of insurance in existence as of the effective date ~~hereof~~ or issued thereafter.

4 C. Any written agreement in conflict with, modifying, or extending the
5 coverage of any contract of insurance shall be deemed to be physically made a part
6 of a policy or other written evidence of insurance, within the meaning of this ~~section~~
7 Section, whenever such written agreement makes reference to such policy or
8 evidence of insurance and is sent to the holder of such policy or evidence of
9 insurance by United States mail, postage prepaid, at such holder's last known address
10 as shown on such policy or evidence of insurance or is personally delivered to such
11 holder.

12 §868. Limiting actions; jurisdiction

13 A. No insurance contract delivered or issued for delivery in this state and
14 covering subjects located, resident, or to be performed in this state, or any group
15 health and accident policy insuring a resident of this state regardless of where made
16 or delivered, shall contain any condition, stipulation, or agreement: either:

17 (1) Requiring it to be construed according to the laws of any other state or
18 country except as necessary to meet the requirements of the motor vehicle financial
19 responsibility laws of such other state or country; ~~or,~~

20 * * *

21 B. No insurance contract delivered or issued for delivery in this state and
22 covering subjects located, resident, or to be performed in this state, or any health and
23 accident policy insuring a resident of this state regardless of where made or
24 delivered, shall contain any condition, stipulation, or agreement limiting right of
25 action against the insurer to a period of less than twenty-four months next after the
26 inception of the loss when the claim is a first-party claim, as defined in R.S. 22:1692,
27 and arises under any insurance classified and defined in R.S. 22:47(6), ~~(7)~~, (10), (11),
28 (12), (13), ~~and (15)~~, and (19) or to a period of less than one year from the time when

1 the cause of action accrues in connection with all other insurances unless otherwise
2 specifically provided in this Code.

3 * * *

4 §871. Signature of agent producer

5 Every duly licensed ~~insurance agent~~ producer who solicits information to be
6 contained on any application for individual life or individual, family group, or
7 association health and accident insurance shall affix his legal signature thereto. No
8 such agent producer shall sign any application described above unless he personally
9 obtained the information shown on such application. Such information may be
10 obtained by the agent producer in person, by telephone, or by any other means of
11 direct communication between the agent producer and the applicant.

12 * * *

13 §875. Intervening breach

14 If any breach of a warranty or condition in any insurance contract occurs
15 prior to a loss under the contract, such breach shall not ~~avoid~~ void the contract nor
16 ~~avail~~ allow the insurer to avoid liability, unless the breach is material and exists at
17 the time of the loss.

18 §876. Assignment of policies

19 Subject to the terms of the policy relating to its assignment, life insurance
20 policies, other than group life insurance policies, annuity, and health and accident
21 policies providing benefits for accidental death, ~~whether such policies were~~
22 ~~heretofore or hereafter issued~~, and under the terms of which the beneficiary may be
23 changed upon the sole request of the insured, may be assigned either by pledge or
24 transfer of title, by an assignment executed by the insured alone and delivered to the
25 insurer, whether or not the pledgee or assignee is the insurer. This Section shall not
26 prohibit the assignment by the insured of any certificate of insurance issued under
27 a group life insurance policy. Any such assignment shall entitle the insurer to deal
28 with the assignee as the owner or pledgee of the policy in accordance with the terms
29 of the assignment, until the insurer has received at its home office written notice of

1 termination of the assignment or pledge. No insurer shall prohibit the assignment
2 to a viatical settlement provider of a policy otherwise assignable.

3 §877. Payment discharges insurer

4 Whenever the proceeds of, or payments under a life endowment or health and
5 accident insurance policy or any annuity contract issued by a life insurance company;
6 ~~heretofore or hereafter issued~~, become payable and the insurer makes payment
7 thereof in accordance with the terms of the policy or contract or in accordance with
8 any written assignment thereof or of any interest thereunder, hereafter made, the
9 person then designated in the policy or contract or by such assignment as being
10 entitled thereto, shall be entitled to receive such proceeds or payments and to give
11 full acquittance therefor, and such payment shall fully discharge the insurer from all
12 claims under the policy or contract unless, before payment is made, the insurer has
13 received at its home office, written notice by or on behalf of some other person that
14 such other person claims to be entitled to such payment or some interest in the policy
15 or contract. Nothing contained in this Section shall affect any claim or right to any
16 policy or contract or the proceeds thereof or payments thereunder as between persons
17 other than the insurer.

18 §878. Forms for proof of loss furnished

19 Any insurer requiring completion of a proof of loss form shall ~~furnish~~ provide
20 such form to any person claiming to have a loss under any insurance contract. ~~But;~~
21 however, such insurer shall not, by reason of the requirement ~~so to furnish~~ provide
22 forms, have any responsibility for or with reference to the completion of such proof
23 or the manner of any such completion or attempted completion.

24 §879. Claim administration not waiver

25 None of the following acts by or on behalf of an insurer shall be deemed to
26 constitute a waiver of any provision of a policy or of any defense of the insurer;
27 ~~thereunder:~~

28 * * *

1 (2) ~~Furnishing~~ Providing forms for reporting a loss or claim, for giving
2 information relative thereto, or for making proof of loss, or receiving or
3 acknowledging receipt of any such forms or proofs completed or incompletd.

4 (3) Investigating any loss or claim under any policy or engaging in
5 negotiations ~~looking toward~~ considering a possible settlement of any such loss or
6 claim.

7 §880. Validity of noncomplying forms

8 Any insurance policy, rider, or endorsement hereafter issued and otherwise
9 valid, which contains any condition or provision not in compliance with the
10 requirements of this Code, shall not be rendered invalid, ~~thereby~~, but shall be
11 construed and applied in accordance with such conditions and provisions as would
12 have applied had such policy, rider, or endorsement been in full compliance with this
13 Code.

14 * * *

15 §882. Waiver of subrogation

16 Under any policy of insurance which authorizes the insured to waive the right
17 of recovery of the insured against any party prior to loss without additional premium,
18 the insured shall also be entitled to waive in writing after loss without invalidating
19 the policy the right of recovery against any of the following:

- 20 (1) Anyone insured under the same policy~~;~~;
- 21 (2) A corporation, partnership or other entity in which the insured owns
22 stock or has a proprietary interest~~;~~;
- 23 (3) Anyone who owns stock or has a proprietary interest in the insured~~;~~;
- 24 (4) An employee or employer of the insured~~;~~;
- 25 (5) Anyone having an interest as owner, lessor~~,~~, or lessee of the insured
26 premises or the premises on which the loss occurred and the employees, partners,
27 and stockholders of such owner, lessor, or lessee~~;~~; ~~and~~;

28 * * *

29 §883. Stop-loss insurance coverage

30 * * *

1 C. A stop-loss or excess insurance policy form intended for issue to cover
 2 losses of a group health plan, as defined in R.S. 22:1061(1), shall be submitted to the
 3 Department of Insurance for prior approval pursuant to the policy form filing
 4 requirements established by R.S. 22:861 and shall satisfy the following conditions:

5 * * *

6 (5)

7 * * *

8 (c) All applications for stop-loss or excess insurance that include the option
 9 to purchase a policy providing coverage restricted to claims both incurred and paid
 10 during the contract term must contain a form for acceptance or rejection of the offer
 11 mandated in Subparagraph ~~(5)~~(b) of this Paragraph and must include disclosures as
 12 prescribed by the commissioner.

13 (d) All applications for stop-loss or excess insurance including options to
 14 purchase a policy providing coverage for claims incurred prior to the contract term,
 15 or providing coverage for claims incurred prior to the contract term but paid during
 16 the contract term, must contain a form for acceptance or rejection of the offer
 17 mandated in Subparagraph ~~(5)~~(b) of this Paragraph and must include disclosures as
 18 prescribed by the commissioner.

19 * * *

20 §884. Incontestability after reinstatement

21 The reinstatement of any policy of life or noncancellable disability insurance
 22 or contract of annuity delivered or issued for delivery in this state after 12:00 noon
 23 of October 1, 1948, shall be incontestable after the same period following
 24 reinstatement and with the same conditions and exceptions, as provided in the policy
 25 or contract with respect to the incontestability ~~thereof~~.

26 §885. Cancellation by the insured; surrender

27 A. Cancellation by the insured of any policy which by its terms is
 28 ~~cancellable~~ may be cancelled at the insured's option or of any binder based on such
 29 policy may be effected by written notice thereof to the insurer and surrender of the
 30 policy or binder for cancellation prior to or on the effective date of such cancellation.

1 In the event the policy or binder has been lost or destroyed and cannot be so
2 surrendered, the insurer may in lieu of such surrender accept and in good faith rely
3 upon the insured's written statement setting forth the fact of such loss or destruction.

4 * * *

5 C. The surrender of a policy to the insurer for any cause by any person
6 named therein as having an interest insured ~~thereunder~~ under the policy shall create
7 a presumption that such surrender is ~~concurred in~~ agreed to by all persons so named.

8 D. This Section shall not apply to life insurance policies or to annuity
9 contracts, nor to the contracts provided in Subpart C of Part IV of this Chapter, ~~4. of~~
10 ~~this Title.~~

11 §886. Cancellation by the commissioner of insurance

12 The commissioner of insurance may order the immediate cancellation of any
13 policy the procuring or effectuation of which was accomplished through or
14 accompanied by a violation of this Code, except in cases where the policy by its
15 terms ~~is not cancellable~~ cannot be cancelled by the insurer and the insured did not
16 knowingly participate in any such violation.

17 §887. Cancellation by insurer; changes to homeowner's insurance policies

18 A. Cancellation by the insurer of any policy which by its terms ~~is cancellable~~
19 may be cancelled at the option of the insurer, or of any binder based on such policy,
20 may be effected as to any interest only upon compliance with either of the following:

21 (1)

22 * * *

23 (b) Upon the written request of the named insured, the insurer shall provide
24 to the insured in writing the reasons for cancellation of the policy. There shall be no
25 liability ~~on the part of~~ and no cause of action ~~of any nature~~ shall arise against any
26 insurer or its ~~agents,~~ producers, employees, or representatives for any action taken
27 by them to provide the reasons for cancellation as required by this Subparagraph.

28 (2) Like notice must also be so delivered or mailed to each mortgagee,
29 pledgee, or other known person shown by the policy to have an interest in any loss

1 which may occur, ~~thereunder~~. For purposes of this Paragraph, "delivered" includes
2 electronic transmittal, facsimile, or personal delivery.

3 * * *

4 B. The mailing of any such notice shall be effected by depositing it in a
5 sealed envelope, directed to the addressee at his last address as known to the insurer
6 or as shown by the insurer's records, with proper prepaid postage affixed, in a letter
7 depository of the United States Post Office. The insurer shall retain in its records
8 any such item so mailed, together with its envelope, which was returned by the ~~Post~~
9 ~~Office~~ post office upon failure to find, or deliver the mailing to the addressee.

10 * * *

11 D.(1) The portion of any premium paid to the insurer on account of the
12 policy, including unearned commission, unearned because of the cancellation and in
13 amount as computed on the pro rata basis, must be actually paid to the insured, the
14 agent of the insured, or other person entitled thereto as shown by the policy or by any
15 endorsement thereon, or be mailed to the insured or such person as soon as
16 practicable following such cancellation. Any such payment may be made by cash,
17 ~~or by~~ check, bank draft, or money order.

18 * * *

19 E. This Section shall not apply to temporary life insurance binders nor to
20 contracts of life, annuity, or health and accident insurance which do not contain a
21 provision for cancellation prior to the date to which premiums have been paid, nor
22 to the contracts provided in Subpart C of Part IV of this Chapter, ~~4 of this Title~~.

23 * * *

24 G.

25 * * *

26 (2) Like notice shall also be delivered or mailed to each mortgagee, pledgee,
27 or other known person shown by the policy to have an interest in any loss which may
28 occur, ~~thereunder~~. For purposes of this Paragraph, "delivered" includes electronic
29 transmittal, facsimile, or personal delivery.

30 * * *

1 D. The affidavit of the individual making or supervising such a mailing; shall
2 constitute prima facie evidence of such facts of the mailing as are therein affirmed.

3 E. The portion of any premium paid to the insurer on account of the policy,
4 unearned because of the cancellation and in an amount as computed on the pro rata
5 basis, must be actually paid to the insured, or other person entitled thereto as shown
6 by the policy or by any endorsements thereon, or be mailed to the insured, his
7 representative, or such other person as soon as practicable following such
8 cancellation. Any such payment may be made by cash, ~~or by~~ check, bank draft, or
9 money order.

10 Section 2. The Louisiana State Law Institute is hereby directed to redesignate R.S.
11 22:881.1 as R.S. 22:890.

12 Section 3. This Act shall become effective on January 1, 2011.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____