

**§12725. Effective Date**

A. This regulation shall become effective upon final publication in the *Louisiana Register*. This regulation shall apply to all newly filed rates filed after March 31, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:1426.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:93 (January 2008).

## **Chapter 129. Regulation Number 95—Public Fire Protection Grading Board of Review**

**§12901. Purpose**

A. The purpose of Regulation 95 is to implement the provisions of Acts 2006, No. 809, Regular Session of the Louisiana Legislature which mandates that a board of review be established within the Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

**§12903. Scope**

A. Regulation 95 sets forth the procedures for review of a public fire protection grading issued by the Property Insurance Association of Louisiana, R.S. 22:1405.1 through 22:1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

**§12905. Authority**

A. Regulation 95 is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3, and specifically 22:1405(J) and 1405.1 through 1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

**§12907. Definitions**

A. For the purposes of Regulation 95, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Board*—board of review established by the Louisiana Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana pursuant to R.S. 22:1405.1.A.

*Commissioner*—Commissioner of Insurance.

*Fire Chief*—the highest ranking (appointed, elected, or designated) fire fighter in a fire protection district or other recognized fire protection agency. For the purposes of this regulation and other than §12907, Definitions, the term *fire chief* shall be inclusive of the term *fire chief's designee*.

*Fire Chief's Designee*—that individual who is designated, in writing by the fire chief to the commissioner, as an individual authorized to request a review of a public fire protection grading issued by the PIAL.

*Fire Protection District*—a municipal fire department or a state recognized fire service organization graded by the PIAL.

*PIAL*—Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

**§12909. Eligibility to Request Review**

A. A fire chief shall have authority to request a review of a public fire protection grading issued by the PIAL if the following requirements of R.S. 22:1405.2 have been satisfied:

1. the fire chief has attended the Professional Grading Assistance Program class, or has attended a class on fire suppression grading schedule sponsored by the Louisiana Fire Chief's Association or the Louisiana State Fireman's Association, or has attended a training seminar related to fire suppression grading that has been approved by either the Property Insurance Association of Louisiana or the Louisiana State University Fire and Emergency Training Institute; and

2. the fire chief sent a dispute letter to PIAL within 60 days of receipt of PIAL's public fire protection grading that specifically identified the fire chief's reasons for disagreement with PIAL's grading.

B. Upon receipt of the fire chief's dispute letter of a public fire protection grading, PIAL has 60 days to respond in writing to the fire chief. The PIAL response to the dispute letter shall specifically address each reason for a fire chief's disagreement with the public fire protection grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

**§12911. Request for Hearing**

A. The fire chief shall make a written request for board review of the public fire protection grading to the commissioner within 60 days of PIAL's written response to the fire chief's dispute letter.

B. If PIAL fails to provide a written response to the fire chief's dispute letter of a public fire protection grading within 60 days of receipt of the dispute letter, the fire chief shall make a written request to the commissioner within 10

days of the expiration of the 60 day deadline for PIAL's response to the fire chief's dispute letter, for board review of the public fire protection grading.

C. The fire chief's written request for board review shall include, but not be limited to:

1. documentation that the fire chief or his designee has attended one of the classes listed in §12909.A.1;
2. a copy of the fire chief's dispute letter sent to PIAL with certified/registered mail post marks as referenced in §12923;
3. documentation used to support the fire chief's dispute of the public fire protection grading;
4. a copy of the initial questionnaire and other paperwork relevant to the dispute sent to PIAL by the fire chief;
5. a copy of the public fire protection grading report issued by PIAL for the fire protection district that is the subject of the request for the review with certified/registered mail post marks as referenced in §12923;
6. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923. If PIAL failed to respond to the fire chief's dispute letter, the fire chief shall include a statement to that effect; and
7. a copy of the fire chief's written request for review sent to the commissioner, with certified/registered mail postmarks as referenced in §12923.

D. The board may request additional information and documentation from either PIAL or the fire chief prior to the hearing.

E. The board shall have the authority to suspend a detrimental change in a public fire protection grading from the date a proper request for review is received until appropriate board action is completed and a written decision has been issued by the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

### **§12913. Hearing**

A. The board shall convene a hearing within 90 days after a request for review of a public fire protection grading has been properly submitted.

B. The board shall hold the hearing in the public fire protection district for which a request for review has been filed.

C. The fire chief shall provide a convenient forum to conduct the hearing in the public fire protection district that is the subject of the review.

D. All testimony presented to the board during a hearing shall be conducted under oath.

E. A transcript shall be taken of all testimony provided in a hearing or rehearing.

F. The board shall have 90 days following the hearing to render its decision.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

### **§12915. Standard of Review**

A. The board shall determine whether the public fire protection grading issued by the PIAL was proper according to PIAL guidelines in use at the time the disputed public fire protection grading was performed.

B. The board's evaluation of the public fire protection grading issued by PIAL shall include information provided to the board pursuant to §12911.C as well as all testimony presented at the hearing or rehearing.

C. Within 10 days following a written request by the board, PIAL shall provide to the board all records relating to the grading of the public fire protection district that is the subject matter of the pending review including but not limited to:

1. a copy of all information provided to PIAL by the fire chief at the time the disputed grading of the subject fire protection district was performed;
2. a complete copy of PIAL's public fire protection grading procedures and guidelines used to grade the subject fire protection district at the time the disputed grading was performed;
3. a copy of PIAL's public fire protection grading notice of results sent to the fire chief, with certified/registered mail postmarks as referenced in §12923;
4. a copy of the fire chief's dispute letter sent to PIAL, with certified/registered mail postmarks as referenced in §12923;
5. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

### **§12917. Rehearing**

A. The fire chief and PIAL shall both have the right to request that the board reconsider its decision made pursuant to section §12911 through §12915.

B. The request for rehearing of a board decision made pursuant to section §12911 through §12915 shall be made in writing to the commissioner within 10 days after receipt of a written decision of the board. The request for rehearing shall state the grounds upon which a rehearing should be granted.

C. The commissioner shall transmit the rehearing request to the board within 10 days of receipt.

D. The board shall have 60 days from the receipt of a request for rehearing to make its decision to grant or deny the rehearing request.

E. The board shall give notice of its written decision to grant or deny a rehearing to both the fire chief and PIAL.

F. If the board grants the rehearing request, the board shall convene the rehearing within 90 days after granting the request for rehearing.

G. A rehearing shall be held at the Louisiana Department of Insurance.

H. The board may request additional information and documentation from either PIAL or the fire chief prior to a rehearing.

I. A transcript shall be taken of all testimony provided in a rehearing.

J. The board shall have 90 days following the rehearing to render its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

#### **§12919. Decisions by the Board of Review; Effective Date**

A. The board shall transmit its written decision to both PIAL and the fire chief within 90 days of the completion of a hearing or rehearing.

B. The decision of the board shall instruct PIAL to:

1. reevaluate the disputed public fire protection grading for the subject fire protection district in accordance with the board's decision and instructions; or

2. impose the disputed public fire protection grading for the fire protection district.

C. The board's decision shall include written reasons for its decision.

D. Three members of the board shall constitute a quorum.

E. The vote of each member participating shall be recorded.

F. The chairman shall only vote in the event of a tie.

G. The decision of the board shall become effective 10 business days following the date it was rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

#### **§12921. Notice**

A. The board shall provide public notice of a public fire protection grading review hearing or rehearing 10 business days prior to the hearing. This notice shall provide the time, date, and location of the public fire protection review hearing or rehearing.

B. Notice shall be published on the department's website and in a publication commonly circulated in the disputed fire protection district or other official journal for the municipal fire district or recognized fire protection agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

#### **§12923. Certified/Registered Mail**

A. For the purposes of this regulation, select correspondence underlying a board review of a public fire protection grading shall be made in writing and sent by certified/registered mail.

B. The following correspondence requires certified/registered post marks:

1. PIAL's original written notice of results of a public fire protection grading or original written notice of results of a change to an existing public fire protection grading;

2. the fire chief's written dispute letter to PIAL regarding PIAL's public fire protection grading;

3. PIAL's written response to the fire chief's dispute letter;

4. the fire chief's written request for board review sent to the commissioner;

5. the board's written decision rendered after a hearing or rehearing;

6. a fire chief's or PIAL's written request for rehearing sent to the commissioner;

7. the board's written decision to either grant or deny a rehearing;

8. the board's written request to PIAL for all records relating to the grading of the public fire protection district that is the subject of the review.

C. In the event that documents submitted are not in compliance with the certified/registered mail requirements in §12923.B, the board shall, based on the facts and circumstances, determine whether each document was originally transmitted and received in compliance with §12909 and 12911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

**§12925. Effective Date**

A. This regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to acts or practices committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

## **Chapter 131. Regulation Number 96—Prescribed Minimum Statutory Reserve Liability and Nonforfeiture Standard for Preneed Life Insurance**

**§13101. Authority**

A. Regulation 96 is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, R.S. 22:1 et seq., particularly the Standard Valuation Law, R.S. 22:163.B.(1)(a) and the Standard Nonforfeiture Law for Life Insurance, R.S. 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 34:2193 (October 2008).

**§13103. Scope**

A. Regulation 96 applies to preneed life insurance policies as defined in §13107 of this regulation. Any discrepancy as to whether a particular insurance contract meets the definition of preneed life insurance as it pertains to this regulation will be resolved by the Commissioner of Insurance.

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 34:2193 (October 2008).

**§13105. Purpose**

A. The purpose of Regulation 96 is to establish the 1980 Commissioners Standard Ordinary (CSO) Life Insurance Valuation Mortality Table, defined in §13107, as the required minimum statutory reserve valuation and nonforfeiture value standard for preneed life insurance policies.

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 34:2193 (October 2008).

**§13107. 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.

*Home Service Contracts*—those life insurance policies and certificates issued by a company that has a home service marketing distribution system as defined under Title 22, the Louisiana Insurance Code, R.S. 22: 1141.C(2). These policies have generally lower life insurance policy face amounts with simplified issue and non-medically underwritten features. The proceeds of these policies are usually used to pay burial and other funeral expenses.

*Preneed Life Insurance*—for purposes of this regulation, is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of, and immediately following, the death of the insured. Goods and services may include, but are not limited to, embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. For the purpose of this regulation preneed life insurance shall include home service contracts and other similarly underwritten life insurance policies and certificates.

*Ultimate 1980 CSO*—the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

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 34:2193 (October 2008).

**§13109. Minimum Valuation Mortality Standards**

A. For preneed life insurance policies, as defined in §13107, the mortality standard to be used to determine the minimum statutory reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.