

**NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)**  
**Proposed Beneficiaries' Bill of Rights**

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*To be considered by the NCOIL Life Insurance & Financial Planning Committee via conference call on September 8, 2010.*

*Sponsored by Rep. Robert Damron (KY) and Rep. Kennedy (RI)*

**KEY**

Double-line boxes contain proposed amendments and comments.

Proposed additions indicated by underline.

Proposed deletions indicated by ~~strikethrough~~.

**Section 1. Short Title**

This Act shall be known as the *Beneficiaries' Bill of Rights*.

**Section 2. Purpose**

This Act will require complete and proper disclosure, transparency, and accountability relating to retained asset accounts for life insurance death benefits and that beneficiaries are fully informed—in bold type and in layman's language—of their options.

**LOUISIANA DEPT. OF INSURANCE**

~~The purpose of this Act is to will require that beneficiaries under any policy or certificate of life insurance or annuity contract subject to the insurance laws of this state receive complete and proper disclosure; transparency, and accountability relating to any method of payment of retained asset accounts for life insurance death benefits and that beneficiaries are fully informed—in bold type and in layman's language—of their options.~~

**LOUISIANA DEPT. OF INSURANCE**

**Section #. Construction**

This Act shall be construed to effect the purpose expressed in Section 2.

**Section 3. Applicability**

This Act shall apply to all insurance companies licensed in *[Insert State]* who offer retained asset accounts for death benefits.

**LOUISIANA DEPT. OF INSURANCE**

~~This Act shall apply to all claims for a death benefit under any policy or certificate of life insurance or annuity contract subject to the insurance laws of this state insurance companies licensed in *[Insert State]* who offer retained asset accounts for death benefits.~~

**Section 4. Definitions**

A. "Policy" means any policy or certificate of insurance that provides a death benefit.

**LOUISIANA DEPT. OF INSURANCE**

A. "Policy" means any policy or certificate of life insurance or annuity contract that provides a death benefit.

B. "Retained Asset Account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account.

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

B. "Retained Asset Account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account that is contained within or subject to the insurer's general account.

**CENTER FOR ECONOMIC JUSTICE (CEJ)**

B. "Retained Asset Account" means any supplemental contract, policy provision, agreement or other mechanism by which an insurer does not make an immediate cash payment of the full benefit amount of a life insurance policy. Retained asset accounts include, but are not limited to, agreements in which the insurer holds the death benefit and issues a "checkbook" or other means of accessing the death benefit funds in the future.

**LOUISIANA DEPT. OF INSURANCE**

B. "Retained Asset Account" means any method of payment of a death benefit from a policy or certificate of life insurance or annuity contract in which the proceeds due are transferred by the insurer into any type of account or investment in which the insurer or a related party directly or indirectly retains any interest in the assets transferred~~mechanism whereby the settlement of proceeds payable under a life insurance policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account.~~

**METLIFE**

B. "Retained Asset Account" means ~~any mechanism whereby the~~ a settlement option under which the of proceeds payable under a life of a insurance policy are paid by or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account, where those proceeds are retained by the insurer, pursuant to a supplementary contract.

C. All other definitions should be consistent with and reference those used in *[Insert State Insurance Code]*.

**LOUISIANA DEPT. OF INSURANCE**

C. All other terms used in this Act~~definitions shall~~ be interpreted in a manner consistent with and reference these definitions used in *[Insert State Insurance Code]*.

**Section 5. General Requirements**

A. An insurer may not use a retained asset account as a mode of settlement unless the insurer obtains the written consent of the beneficiary or, in the case of a group contract, the policy owner, prior to the transfer of the death benefit to a retained asset account.

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

~~A. An insurer may not use a retained asset account as a mode of settlement unless the insurer obtains the written consent of the beneficiary or, in the case of a group contract, the policy owner, prior to the transfer of the death benefit to a retained asset account.~~

***LOUISIANA DEPT. OF INSURANCE***

A. An insurer ~~may shall~~ not use a retained asset account ~~or a method of payment other than lump sum payment of a death benefit as a mode of settlement~~ unless the insurer obtains the written consent of the beneficiary, ~~or the beneficiary's legal representative, or, in the case of a group contract, the policy owner,~~ prior to the ~~use of transfer of the death benefit to a retained asset account or any method of payment other than a lump sum.~~

***METLIFE***

A. An insurer may not use a retained asset account as ~~a~~the mode of settlement unless the insurer ~~discloses such option to the~~ obtains the written consent of the beneficiary ~~or, in the case of a group contract, the policy owner,~~ prior to the transfer of the death benefit to a retained asset account.

***WASHINGTON STATE OFFICE OF THE INSURANCE COMMISSIONER***

*Except for annuity distributions, there is no reason to provide policy owners any control over beneficiary assets, as the proposed bill does. Perhaps the only exception would be for purposes of corporate-owned life insurance policies when the policy owner is also the beneficiary.*

B. A retained asset account may not be the default method of payment to a beneficiary or policy owner.

***ACLI, LOUISIANA DEPT. OF INSURANCE, METLIFE***

~~B. A retained asset account may not be the default method of payment to a beneficiary or policy owner.~~

***CENTER FOR ECONOMIC JUSTICE (CEJ)***

*Staff Note: The language in item A(1) below incorporates Sections 5(A) and 5(B).*

A. A life insurer may offer a retained asset account only if:

1. A consumer or policyholder makes an affirmative selection of a retained asset account instead of immediate cash payment as the benefit settlement procedure for the policy. The retained asset account option may not be the default benefit settlement option.
2. The insurer, at least annually, obtains affirmative ongoing selection by the policyholder of the retained asset option instead of immediate cash payment as the benefit settlement procedure for policy.
3. The insurer provides a monthly account statement to the policyholder for any month the retained asset account exists.
4. The insurer, as part of the document in which the affirmative selection by the consumer for the retained asset account option is made, discloses in bold capital 10 point type above the selection signature and separated by a blank line above and below "THIS ACCOUNT IS NOT A BANK PRODUCT AND IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION."
5. The insurer provides the retained asset account option for a maximum of 60 months and, if any funds remain in the retained asset account at the end of 60 months, the insurer shall immediately pay the balance of the retained asset account to the beneficiary.

### **ASSURANT**

*Retained asset accounts should be the default choice for life insurance proceeds where the insurer chooses to make them available. Retained asset accounts are a good option for consumers who do not inform the insurer of their wishes. In such instances proceeds checks may also be ignored by the consumer. Additionally, involving a group policyholder in a decision concerning potential beneficiaries whom the group policyholder has never met is unnecessary and an intrusion on the beneficiaries' rights.*

### **NEW JERSEY DEPT. OF BANKING AND INSURANCE**

*RAAs are only established by the insurance company as a default in instances where the beneficiaries do not express a preference for the payment of death benefits after notice from the company or, in the case of group policies, when the sophisticated policyholder makes the choice for the group. In the latter case, we know that leading life insurance companies' best practices dictate that RAAs are still only established after the companies send out a claim package to the beneficiaries offering payment options.*

### **PENNSYLVANIA DEPARTMENT OF INSURANCE**

*The Department has reviewed the use of RAAs and believes that banning the use of RAAs as a default option is premature. We believe, as has the NAIC, that RAAs are a suitable option for distributing life insurance proceeds provided that all appropriate disclosures are first made to consumers upon which they can make informed decisions at all points within the insurance transaction from time of purchase to time of claim.*

### **WASHINGTON STATE OFFICE OF THE INSURANCE COMMISSIONER**

*Meaningful disclosure of the availability, terms, and management of RAAs should alleviate concerns about whether an RAA is provided as a default mode of settlement. If fully disclosed, a default RAA can be meaningful.*

- C. Insurers shall report to the *[Insert State Insurance Department]* the number of beneficiaries with retained asset accounts in place, the total funds held in such accounts, a description of how the funds are invested, a listing of any retained asset account service fees charged by the insurer and the funds necessary to cover liabilities under those accounts on their annual statement required by the *Accounting Practices and Procedures Manual* of the National Association of Insurance Commissioners.

### **AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

- C. ~~Insurers shall report to the *[Insert State Insurance Department]* the number of beneficiaries with retained asset accounts in place, the total funds held in such accounts, a description of how the funds are invested, a listing of any retained asset account service fees charged by the insurer and the funds necessary to cover liabilities under those accounts on their annual statement required by the *Accounting Practices and Procedures Manual* of the National Association of Insurance Commissioners.~~

### **LOUISIANA DEPT. OF INSURANCE**

- C. ~~An~~ Insurers shall report to the ~~*[Insert State Insurance Department]*~~ the number of beneficiaries with retained asset accounts ~~in place~~, the total funds held in such accounts, ~~a description of how the investment of those funds are invested~~, a listing of any retained asset account ~~the~~ service fees charged by the insurer on such accounts, and the funds necessary to cover liabilities under those accounts on their annual statement required by the *Accounting Practices and Procedures Manual* of the National Association of Insurance Commissioners.

**CENTER FOR ECONOMIC JUSTICE (CEJ)**

# Any life insurer offering a retained asset account shall:

1. File the following data annually as part of the statutory annual statement: the number of and total dollar amount of retained asset accounts at the beginning of the reporting year and at the end of the reporting year and the interest paid of these accounts during the reporting years, broken out by line of business and by the age of the retained asset account at the beginning and end of the reporting year, respectively for account ages 0-12 months, 13-24 months, 25-36 months, 37-48 months, 49-60 months and 61 or greater months. These data are public information upon filing with the Commissioner.
2. File prior to use with the Commissioner all marketing materials and disclosures related to retained asset accounts. These documents are public information upon filing with the Commissioner.
3. Maintain all documents or other evidence of a policyholder's affirmative selection of a retained asset account option for a period ending three years after the retained asset account no longer exists.

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*Annual Statement Reporting -- The current Annual Statement blanks include RAA accounts in a category called "Deposit-Type Funds" (reported on line 3 of the Surplus & Liabilities page of the life annual statement). I have analyzed the current annual statement disclosures and have concluded they are insufficient. Other information can be discerned from the supporting exhibits, but the RAA's are not distinguishable from other types of supplementary contracts. I believe requiring more specific reporting will aid regulators and legislators and fully support this provision of the NCOIL model.*

**CENTER FOR INSURANCE RESEARCH**

*General Account Disclosure—RAA's are generally held in an insurer's general account and typically no separate account is established. Insurers should be required to disclose whether RAA funds are held in the general account or elsewhere.*

**CENTER FOR INSURANCE RESEARCH**

*Abandoned Property Reporting—In the statements released by various insurers and in the oral presentations at the recent NAIC meeting, several insurers declared that most RAA accounts are closed out within a short time-frame. However, no information or data has been presented regarding the number of RAA accounts that are transferred to state unclaimed property funds under abandoned property laws. Insurers should be required to report to regulators the amount of RAA accounts (if any) that are turned over to unclaimed property funds every year. Insurers should also be required to search for and notify account owners prior to any such transfer.*

**WASHINGTON STATE OFFICE OF THE INSURANCE COMMISSIONER**

*Reporting required by the bill should have a clear goal and be useful to those persons who will be overseeing RAAs in the marketplace. The reporting required in the current proposal does not intuitively suggest a value for the reported information.*

**WASHINGTON STATE OFFICE OF THE INSURANCE COMMISSIONER**

*The bill also could provide enhanced consumer protection by requiring that RAAs be held and managed as fiduciary accounts. All states' laws have a fully-developed concept of fiduciary protections, and it*

would not be necessary to develop a new system of protection. As a fiduciary account, an RAA might have better security from the beneficiary's point of view rather than simply having the possibility of guaranty association protection.

## **Section 6. Disclosure Requirements**

A. If an insurer utilizes retained asset accounts, the claimant or beneficiary statement form must provide the claimant, in easy-to-understand language and in bold type, all available benefit options including, but not limited to, payment directly by check or use of a retained asset account.

### **LOUISIANA DEPT. OF INSURANCE**

A. If an insurer ~~utilizes offers and a beneficiary accepts a retained asset accounts,~~ or any method other than the lump sum payment of a death benefit, the insurer shall disclose in a document signed by the beneficiary, or the beneficiary's legal representative, and to the policy owner, in the case of a group contract, prior to the use of the retained asset account or method other than the lump sum payment of the death benefit, ~~claimant or beneficiary statement form must provide the claimant,~~ in easy-to-understand language and in bold type, information describing and explaining all available death benefit payment options including, but not limited to, payment directly by check or use of a retained asset account.

### **METLIFE**

A. If an insurer utilizes retained asset accounts, the claimant or beneficiary statement form must provide the claimant, in easy-to-understand language and in bold type, ~~all available benefit options including, but not limited to, payment directly by check or use of a retained asset account.~~ an explanation of how they may withdraw the entire amount of the account if they wish.

### **AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.A would require an insurer that utilizes these accounts to provide the claimant with a "claimant or beneficiary statement form" that lists all available benefit options. In addition to the need for clarity with regard to the stated form (e.g., claim form), such benefit options should also be permitted to be disclosed in other materials that are sent to a beneficiary.*

### **ASSURANT**

*Section 6A requires the insurer to provide the consumer with available options for receiving death benefits. Determining advantages and disadvantages of retained assets accounts versus checking accounts involves value judgments that are not a reliable standard of compliance for insurers.*

### **WASHINGTON STATE OFFICE OF THE INSURANCE COMMISSIONER**

*Disclosures in claim forms and other materials provided after an insurer receives a notice of potential claim are most important to beneficiaries. Simply requiring bold print is not meaningful; the entire document could be printed in bold, which would comply with the bill, but would provide little consumer benefit. The proposed bill should require that information about the availability of an RAA be fully disclosed in consumer-friendly language approved by the insurance regulator.*

B. In conjunction with the use of a retained asset account as a mode of settlement, an insurer may not use a retained asset account as a mode of settlement unless the insurer discloses, prior to the transfer of the death benefit to a retained asset account, in a written document signed by the recipient, the following to any beneficiary and, in the case of a group contract, to the policy owner:

**LOUISIANA DEPT. OF INSURANCE**

B. ~~In conjunction with the use of a retained asset account as a mode of settlement, an insurer may shall~~ not use a retained asset account as a ~~mode~~ method of settlement of a death benefit unless the insurer discloses and explains in a document signed by the beneficiary, or the beneficiary's legal representative, and to the policy owner, in the case of a group contract, prior to the transfer of the death benefit to a retained asset account, in a written document signed by the recipient, in easy-to-understand language and in bold type, the following ~~to any beneficiary and, in the case of a group contract, to the policy owner:~~

**METLIFE**

B. In conjunction with the use of a retained asset account as a mode of settlement, an insurer may not use a retained asset account as a mode of settlement unless the insurer discloses ~~prior to the transfer of the death benefit to a retained asset account,~~ in a written document signed by the recipient, the following to any beneficiary ~~and, or,~~ in the case of a group contract, to the policy owner:

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.B would require a beneficiary to sign a written document that contains the various disclosures before a retained asset account can be established. The industry wants to create these interest-bearing accounts for beneficiaries as soon as possible without having to wait for a signed disclosure form. In addition, the need for a signed form is decreased if enhanced disclosures are made.*

1. Any settlement options available under the policy, including the immediate lump sum payment of all proceeds.

**LOUISIANA DEPT. OF INSURANCE**

1. ~~Any settlement options available under the policy, including the immediate lump sum payment of all proceeds.~~

**METLIFE**

1. ~~Any~~ ~~Other~~ settlement options available ~~under the policy, including the immediate lump sum payment of all proceeds.~~

2. The rights and obligations of both the beneficiary and the insurer under the retained asset account option.

**LOUISIANA DEPT. OF INSURANCE**

2. The rights and obligations of both the beneficiary and the insurer ~~under the retained asset account option.~~

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.B.2 would require an insurer to disclose, before a retained asset account is established, "the rights and obligations of both the beneficiary and the insurer under the retained asset account option". Such rights and obligations, however, are generally contained in the related materials that are furnished to a beneficiary only after the account has been established. Therefore, this provision should be modified to require the disclosure of such rights and obligations only after the account has been established.*

3. Any interest being paid under the options and how it is calculated.

**LOUISIANA DEPT. OF INSURANCE**

3. ~~The Any interest, dividends, or other gains to be distributed being paid under the options and how the method of it is calculated or determination by the payer.~~

**METLIFE**

3. Any interest being paid under the retained asset account~~options~~ and how it is calculated.

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.B.3 would require an insurer to disclose "any interest being paid under the options and how it is calculated" before the death benefit is transferred to the retained asset account. Many insurers do not assign a specific rate of interest (or a corresponding dollar amount of interest) to these accounts until the death benefit claim has been processed. Therefore, this provision should be modified to require the disclosure of such information only after the claim has been processed.*

**METLIFE**

*The methodology by which interest is calculated does not provide useful information to the consumer and will only serve to complicate the information that the consumer may find useful. In this regard, it should be noted that banks are not required to disclose the methodology by which they calculate interest.*

4. Whether the retained asset account is the equivalent of a checking or draft account.

**LOUISIANA DEPT. OF INSURANCE**

4. ~~Whether the retained asset account is the equivalent of a checking or draft account.~~

5. An explanation of all the account's features, including:

**LOUISIANA DEPT. OF INSURANCE**

5. ~~An explanation of all t~~The account's features, including:

- (a) What banking services are provided to the account holder.

**LOUISIANA DEPT. OF INSURANCE**

- (a) ~~The~~ What banking or other financial services are provided to the account holder.

- (b) Which services are provided at no charge and which services involve a fee and the amount of the fee.

**LOUISIANA DEPT. OF INSURANCE**

- (b) ~~The~~ Which services are provided at no charge and the ~~which~~ services provided for ~~involve a~~ fee, including and the amount of the ~~or~~ method of calculating any fee.

- (c) The nature and frequency of account statements.

- (d) A telephone number and address where the beneficiary can obtain additional information regarding the account.

**LOUISIANA DEPT. OF INSURANCE**

- (d) ~~The~~A telephone number and address where the beneficiary can obtain additional information regarding the account.

- (e) Any minimum or maximum benefit payment requirements under the account.

**LOUISIANA DEPT. OF INSURANCE**

- (e) ~~The~~Any minimum or maximum benefit payment requirements under the account.

- (f) The number of withdrawals permitted within any time period and minimum withdrawal amounts.

**LOUISIANA DEPT. OF INSURANCE**

- (f) The limitations on the number and amount of withdrawals ~~permitted within any time period and minimum withdrawal amounts~~.

- (g) If the account is guaranteed by the Federal Deposit Insurance Corporation (FDIC) or under *[Insert Reference to State Guaranty Fund]*.

**LOUISIANA DEPT. OF INSURANCE**

- (g) ~~The availability of protection~~If the account is guaranteed by the Federal Deposit Insurance Corporation (FDIC), ~~or under~~ *[Insert Reference to State Guaranty Fund]*, ~~or from any other source~~.

**METLIFE**

- (g) ~~Whether~~ If the account is guaranteed by the Federal Deposit Insurance Corporation (FDIC), ~~or under~~ *[Insert Reference to State Guaranty Fund]*.

**CENTER FOR ECONOMIC JUSTICE (CEJ)**

- (#) If the amount of the death benefit exceeds or may exceed the limit of coverage by the state Life and Health Guaranty Association, the insurer, as part of the document in which the affirmative selection by the consumer for the retained asset option is made, discloses in bold capital 10 point type above the selection signature and separated by a blank line above and below **“IN THE EVENT THAT THE INSURANCE COMPANY FAILS, THE GUARANTY ASSOCIATION COVERAGE WILL NOT PROTECT THE FULL AMOUNT OF THE DEATH BENEFIT IN THE ACCOUNT. YOU MAY WISH TO TRANSFER SOME OF THE ACCOUNT AMOUNT TO A PROTECTED ACCOUNT IN A DIFFERENT INSTITUTION TO FULLY PROTECT YOUR FUNDS.”**

- (#) If the amount of the death benefit is less than or equal to the limit of coverage by the state Life and Health Guaranty Association, the insurer may not inform the consumer or policyholder of this fact.

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.B.5(g) would require an insurer to disclose, before a retained asset account is established,*

*whether it is guaranteed by the Federal Deposit Insurance Corporation (FDIC) or under a state guaranty association fund. We do not believe that there should be mandatory disclosure of state guaranty associations before such an account is established because (a) a beneficiary's decision on whether to leave his or her benefits in a retained asset account should be based on the financial strength of the insurer and (b) such a disclosure could violate a state's prohibition against advertising the existence of its guaranty association or related coverage.*

***CENTER FOR INSURANCE RESEARCH***

*Guaranty Fund Limits Disclosure – In the vast majority of states, guaranty fund coverage is limited to a maximum of \$300,000. If the amount in a newly opened RAA exceeds this amount, insurers should be required to notify beneficiaries that only this amount is subject to the protection of the guarantee fund and that beneficiaries may want to transfer amounts in excess of the guaranty fund limit into an insured account with a different institution.*

***NEW JERSEY DEPT. OF BANKING AND INSURANCE***

*RAAs should have unlimited guaranty fund protection in instances where the beneficiaries elected the RAA option when the carrier was solvent...[and] enhanced disclosures of guarantees should be required of carriers, specifically, the presence of state guaranty fund protection and the absence of Federal Deposit Insurance Corporation (FDIC) protection. The adoption and implementation of these reforms will add value to an already important consumer product.*

6. That payment of the total proceeds is accomplished by delivery of a "checkbook kit" or "draft kit" to the beneficiary.

***LOUISIANA DEPT. OF INSURANCE***

6. ~~Theat~~ payment of some or all of the total proceeds is complete with ~~accomplished by delivery to the beneficiary of a "checkbook kit" or "draft kit" to the beneficiary.~~

***METLIFE***

6. ~~How That~~ payment of the total proceeds is accomplished, by delivery of a "checkbook kit" or "draft kit" to the beneficiary.

7. That one check or draft can be written to access the entire proceeds and that other settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum payment requirements.

***AMERICAN COUNCIL OF LIFE INSURERS (ACLI)***

7. That one check or draft can be written to access the entire proceeds and, to the extent that other settlement options are preserved by the insurer, that such options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum payment requirements.

***LOUISIANA DEPT. OF INSURANCE***

7. ~~Theat one check or draft can be written~~ use of one check or draft to may access the entire balance of the proceeds and theat ability to use other settlement options are preserved remains until the entire balance is withdrawn from the account or the balance drops is below the insurer's minimum payment requirements.

**METLIFE**

7. That one check or draft can be written to access the entire proceeds and that other settlement options are preserved until the entire balance is withdrawn or the balance drops below the insurer's minimum balance~~payment~~ requirements.

8. Any time delays the beneficiary should expect to encounter in completing any authorized transaction under a retained asset account and the anticipated amount of such time delay.

**LOUISIANA DEPT. OF INSURANCE**

8. ~~Any time delays~~ ~~the beneficiary should expect~~ ~~to encounter~~ delays in completing any authorized transactions under a retained asset account and the anticipated amount of duration of such ~~time delays~~.

**METLIFE**

8. ~~Any~~ ~~Time delays, if any,~~ the beneficiary should expect to encounter in completing any authorized transaction under a retained asset account and the anticipated amount of such time delay.

9. That interest earned on the account may be taxable and the beneficiary should consult his or her tax advisor.

**LOUISIANA DEPT. OF INSURANCE**

9. ~~The~~ interest, dividends, or other gains distributed to ~~earned on~~ the account may be taxable and the beneficiary should consult ~~his or her~~ a tax advisor.

**METLIFE**

9. That interest earned on the account may be taxable ~~and the beneficiary should consult his or her~~ tax advisor.

**LOUISIANA DEPT. OF INSURANCE**

# The insurer or a related party may, in addition to any fees charged on the account, derive revenue from the difference between any interest, dividends, or other gains distributed to the account and the total gains received on the investment of the balance of funds in the account.

10. The methodology used to determine the interest rate being paid under the retained asset account.

**LOUISIANA DEPT. OF INSURANCE, METLIFE**

10. ~~The methodology used to determine the interest rate being paid under the retained asset account.~~

**AMERICAN COUNCIL OF LIFE INSURERS (ACLI)**

*Section 6.B.10 would require an insurer to disclose the "methodology" that it uses to determine the interest rate that is being credited to the account. Given that Section 6.B.3 would require an insurer to disclose "any interest being paid under the options and how it is calculated", we believe that an additional disclosure requirement relating to methodology is unnecessary.*

**ASSURANT**

*The methodology by which interest is calculated does not provide useful information to the consumer and will only serve to complicate the information that the consumer may find useful. In this regard, it should be noted that banks are not required to disclose the methodology by which they calculate interest.*

- 11. A comparison of the advantages and disadvantages of maintaining the settlement proceeds with the insurer in a retained asset account and maintaining the settlement proceeds with a financial institution.

**ACLI, LOUISIANA DEPT. OF INSURANCE, METLIFE**

~~11. A comparison of the advantages and disadvantages of maintaining the settlement proceeds with the insurer in a retained asset account and maintaining the settlement proceeds with a financial institution.~~

- 12. Any other information as prescribed by the *[Insert State Insurance Commissioner]*.

**LOUISIANA DEPT. OF INSURANCE**

~~12. Any other~~ The information as prescribed by the *[Insert State Insurance Commissioner]*.

**ASSURANT**

*With respect to the disclosures required in this section, we submit the following as an alternative. Insurers should send with the checkbooks or draft books an explanation of how the retained asset account works, including how interest is calculated, that it may be taxable in the way that other interest is taxable and that they should consult their tax advisor if needed, whether any of the services provided with the account involve a service fee and if so, what those fees are, how often they can expect account statements, contact information, whether the insurers believe the accounts to be guaranteed by a state guaranty fund, and any other terms or conditions of the accounts.*

**CENTER FOR INSURANCE RESEARCH**

*Check Acceptance Issues – Based on media reports, certain beneficiaries have had difficulty in getting checks cashed for certain purchases. Insurers should be required to disclose any limitations they are aware of on the acceptance of checks from an RAA account.*

**Section 7. Penalties**

Failure to meet the requirements of this Act is a violation of *[Insert State Unfair Trade Practices Statute]*.

**LOUISIANA DEPT. OF INSURANCE**

**Section 7. Penalties Unfair Trade Practice**

Failure to meet ~~any~~ the requirements of this Act is a violation of *[Insert State Unfair Trade Practices Statute]*.

**Section 8. Effective Date**

This Act shall apply to claims submitted on or after *[insert appropriate date]*, under any policy issued, delivered, or renewed in this state.

***LOUISIANA DEPT. OF INSURANCE***

This Act shall apply to claims for a death benefit under any policy or certificate of life insurance or annuity contract subject to the insurance laws of this state submitted on or after [insert appropriate date], ~~under any policy issued, delivered, or renewed in this state.~~

***AMERICAN COUNCIL OF LIFE INSURERS (ACLI)***

*Section 8 states that the Act would apply to claims submitted on or after the effective date “under any policy issued, delivered, or renewed in this state”. We believe this section would need to be addressed more thoroughly since many insurers follow the laws of those states in which the claimants or beneficiaries reside.*

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