

SENATE BILL NO. 266

BY SENATOR LONG

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AN ACT

To amend and reenact R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671 (A), (D), (E), (F), and (G), and 1672(A), to enact R.S. 22:1665(F) and 1671(H), and to repeal R.S. 22:1662(13), relative to the licensing of insurance claims adjusters; to provide for licensing requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671(A), (D), (E), (F), and (G), and 1672(A) are hereby amended and reenacted and R.S. 22:1665(F) and 1671 (H) are hereby enacted to read as follows:

§1664. Application for claims adjuster license

* * *

C.

* * *

(2) All business entities applying to do business as independent adjusting companies shall provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities ~~owning~~ **controlling** and any individuals ~~owning~~ **controlling**, directly or indirectly, ten percent or more of the outstanding voting securities of the applicant. In order to make a determination of eligibility, the commissioner may require any person listed pursuant to this Paragraph to submit addresses, social security numbers, criminal and administrative history, fingerprints, background checks, and biographical statements. **For purposes of this Section, "control" has the meaning provided in R.S. 22:691.2.**

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§1665. Resident license

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1 D. A nonresident who is not eligible for a license pursuant to R.S.
 2 22:1670 may designate Louisiana as his home state. Such person is required to
 3 successfully pass the adjuster examination and comply with the other provisions
 4 of this Section applicable to residents of this state.

5 E. No resident of Canada may be licensed pursuant to R.S. 22:1663, or may
 6 designate Louisiana as ~~their~~ his home state, unless such person has successfully
 7 passed the adjuster examination and has complied with the other applicable ~~portions~~
 8 provisions of this Section, except that such applicant shall not be required to comply
 9 with Paragraph (A)(4) of this Section.

10 E F. The commissioner of insurance may require any documents reasonably
 11 necessary to verify the information contained in the application.

12 * * *

13 §1669. Exemptions from examination

14 A. ~~An individual who applies for a claims adjuster license in this state who~~
 15 ~~was previously licensed as a claims adjuster in another state based on a claims~~
 16 ~~adjuster examination shall not be required to complete an examination. This~~
 17 ~~exemption is available only if the person is currently licensed in that state or if the~~
 18 ~~application is received within twelve months of the cancellation of the applicant's~~
 19 ~~previous claims adjuster license and if the prior state issues a certification that, at the~~
 20 ~~time of cancellation, the applicant was in good standing in that state or the state's~~
 21 ~~producer database records or records maintained by the National Association of~~
 22 ~~Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the~~
 23 ~~adjuster is or was licensed in good standing.~~

24 B. An individual licensed as a resident claims adjuster in another state based
 25 on a claims adjuster examination who moves to this state shall make application
 26 within ninety days of establishing legal residence to become a resident claims
 27 adjuster licensee pursuant to R.S. 22:1665. No examination shall be required of that
 28 person to obtain a claims adjuster license. This exemption is available only if the
 29 person is currently licensed in the other state, or if the application is received
 30 within ninety days of the cancellation of the applicant's previous claims adjuster

1 license and if the prior state issues a certification that, at the time of
 2 cancellation, the applicant was in good standing in that state, or the state's
 3 producer database records or records maintained by the National Association
 4 of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that
 5 the adjuster is or was licensed in good standing.

6 ~~€B.~~ An individual who applies for a resident claims adjuster license in this
 7 state who was previously licensed as a claims adjuster in this state shall not be
 8 required to complete an examination. This exemption is available only if the
 9 application is received within ~~twelve~~ twenty-four months of the cancellation of the
 10 applicant's previous claims adjuster license in this state and if, at the time of
 11 cancellation, the applicant was in good standing in this state, and had passed the
 12 examination required by R.S. 22:1668.

13 C. The commissioner may waive the workers' compensation examination
 14 requirement for an individual who has three years of verifiable experience
 15 adjusting workers' compensation claims within the preceding five years,
 16 provided the application is received on or before August 1, 2017.

17 * * *

18 §1671. License

19 A. Unless denied licensure pursuant to this Part, persons who have met the
 20 requirements of this Part shall be issued a claims adjuster license. The license shall
 21 contain the licensee's name, business address, license number, date of issuance,
 22 expiration date, and any other information the commissioner of insurance deems
 23 necessary. A claims adjuster may receive qualification for a license in one or
 24 more of the following lines of authority:

25 (1) Property and casualty.

26 (2) Workers' compensation.

27 (3) Crop.

28 (4) Any limited line pursuant to R.S. 22:1666.

29 * * *

30 D. A claims adjuster doing business under any name other than the

1 claims adjuster's legal name is required to notify the commissioner of insurance
2 prior to using the assumed name. Prior to the use of or changes to any trade
3 name or names, a claims adjuster shall provide written notification of such use
4 or change to the commissioner, on a form prescribed by the commissioner of
5 insurance. A certified copy of registration from the secretary of state shall
6 accompany the application for a trade name. The use by any claims adjuster of
7 a nonapproved trade name shall subject such person to a fine not exceeding two
8 hundred fifty dollars. Additionally, if the claims adjuster continues to use a
9 nonapproved trade name for ten or more days after being notified by the
10 commissioner of insurance to cease using the nonapproved trade name, the
11 claims adjuster shall be subject to an additional fine not to exceed five thousand
12 dollars. If applicable, a claims adjuster shall comply with the provisions of R.S.
13 51:281 et seq.

14 E. A licensed claims adjuster shall be subject to R.S. 22:1961 et seq., relative
15 to unfair trade practices, and R.S. 22:1921 et seq., relative to insurance fraud.

16 ~~EF.~~ A claims adjuster whose license has lapsed may, within twelve months
17 from the expiration date of the renewal, reinstate the license upon approval of the
18 commissioner of insurance. However, a penalty in the amount of double the unpaid
19 renewal fee shall be required for the reinstatement of the claims adjuster license.
20 Reinstatement shall be effective on the date the commissioner of insurance approves
21 the request for reinstatement. A licensed claims adjuster who allows his license to
22 lapse may, within twenty-four months from the expiration date of the license,
23 reinstate the same license upon proof of fulfilling all continuing education
24 requirements through the date of reinstatement and upon payment of all fees
25 due. If the license has been lapsed for more than twenty-four months, the
26 applicant shall fulfill the requirements for issuance of a new license.

27 ~~FG.~~ A licensed claims adjuster who is unable to comply with license renewal
28 procedures due to military service, long-term medical disability, or other extenuating
29 circumstance, may request a waiver of those procedures. The licensed claims
30 adjuster may also request a waiver of any examination requirement, fine, or other

1 sanction imposed for failure to comply with renewal procedures.

2 ~~GH.~~ To assist ~~the commissioner of insurance~~ in his licensing duties, ~~he~~ **the**
 3 **commissioner of insurance** may contract with nongovernmental entities, including
 4 the National Association of Insurance Commissioners (NAIC) or any affiliates or
 5 subsidiaries that the National Association of Insurance Commissioners (NAIC)
 6 oversees to perform any ministerial functions, including the collection of fees and
 7 data, related to licensing that the commissioner of insurance may deem appropriate.
 8 §1672. License denial, nonrenewal, or revocation

9 A. The commissioner of insurance may place on probation, suspend, revoke,
 10 or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine
 11 not to exceed five hundred dollars for each violation up to ten thousand dollars
 12 aggregate for all violations in a calendar year, unless a fine is established by separate
 13 statute in this Title authorizing a greater penalty, or any combination of actions, for
 14 any one or more of the following causes:

15 (1) Providing incorrect, misleading, incomplete, or materially false
 16 information in the license **or renewal** application.

17 (2) Violating ~~any state~~ **the** insurance law **laws** or ~~regulation~~ **regulations of**
 18 **the United States, this state, or any other jurisdiction** or a subpoena or order of
 19 the commissioner of insurance or of another state's insurance commissioner.

20 (3) Obtaining or attempting to obtain a license through misrepresentation or
 21 fraud **or improperly using notes or any other reference material to complete an**
 22 **examination for an insurance license, or otherwise cheating or attempting to**
 23 **cheat on an examination for an insurance license of any kind.**

24 (4) Improperly withholding, misappropriating, or converting any money or
 25 property received in the course of conducting insurance business.

26 (5) Intentionally misrepresenting the terms of an actual or proposed insurance
 27 contract **binder, rider, plan,** or application for insurance, **including all forms or**
 28 **documents that are attached, or will be attached, to an actual or proposed**
 29 **insurance contract, binder, rider, plan, or application for insurance.**

30 (6) Conviction of a **or nolo contendere plea to any** felony, ~~related to~~

1 participation in a pretrial diversion program pursuant to a felony charge,
 2 suspension or deferral of sentence and probation pursuant to Article 893 of the
 3 Code of Criminal Procedure or similar law of another state, or conviction of any
 4 misdemeanor involving moral turpitude, public corruption, or the adjustment of
 5 insurance claims.

6 (7) Admitting to or committing fraud or unfair trade practices.

7 (8) Using fraudulent, coercive, or dishonest practices or demonstrating
 8 incompetence, untrustworthiness, or financial irresponsibility in the conduct of
 9 business that might endanger the public.

10 (9) ~~Demonstrating incompetence, untrustworthiness, or financial~~
 11 ~~irresponsibility while conducting business.~~

12 (10) Denial, suspension, or revocation of an insurance license, or its
 13 equivalent, in any other state, province, district, or territory.

14 (11) Forging a name on an application for insurance or any document
 15 related to an insurance transaction.

16 (12) ~~Cheating, including improperly using notes or any other reference~~
 17 ~~material, to complete an examination for an insurance license.~~

18 (11) Knowingly accepting insurance business from an individual who is
 19 not licensed but who is required to be licensed by the commissioner of insurance.

20 (12) Failure to comply with an administrative or court order imposing a
 21 child support obligation.

22 (13) Failure to pay state income tax or comply with any administrative
 23 or court order directing payment of state income tax.

24 (14) The refusal to submit physical evidence of identity or the conviction
 25 of a felony, in accordance with R.S. 22:1922(B) and (C).

26 (15) Employing or allowing to associate with his business, in any manner,
 27 any person engaged in the business of insurance who has been convicted of a
 28 felony under the laws of this or any other state, the United States, or any other
 29 jurisdiction. As used in this Section, "business of insurance" means the writing
 30 of insurance or the reinsuring of risks by an insurance producer or insurer,

1 including all acts necessary or incidental to such writing or reinsuring, and the
 2 activities of persons who act as, or are, officers, directors, agents, or employees
 3 of producers or insurers, or who are other persons authorized to act on behalf
 4 of such persons.

5 (16) The conviction of a felony involving dishonesty or breach of trust
 6 pursuant to 18 U.S.C. §1033 and §1034, without written consent from the
 7 commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute
 8 regulating crimes by or affecting persons engaged in the business of insurance
 9 whose activities affect interstate commerce.

10 ~~(16)~~(17) Violating R.S. 22:1674(F).

11 ~~(17)~~(18) Failure to complete assignment of adjustment of a claim in a
 12 thorough and timely manner, including submission of the adjustment of a claim to
 13 the party which made that assignment.

14 * * *

15 Section 2. R.S. 22:1662(13) is hereby repealed.

16 Section 3. The provisions of Section 2 of this Act shall become effective on
 17 August 1, 2017.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____