2020 Regular Session

HOUSE BILL NO. 232

BY REPRESENTATIVE SEABAUGH

INSURERS: Provides for the determination of the existence of control of an insurer

1   AN ACT

2   To amend and reenact R.S. 22:691.2(3) and 691.6(K), relative to the control of an insurer;

3   to provide for the rebuttal of a presumption that control exists; to provide for

4   determinations by the commissioner of insurance that control exists; to authorize the

5   commissioner to determine where control exists if a disclaimer of affiliation is filed;

6   and to provide for related matters.

7   Be it enacted by the Legislature of Louisiana:

8   Section 1. R.S. 22:691.2(3) and 691.6(K) are hereby amended and reenacted to read

9   as follows:

10   §691.2. Definitions

11   As used in this Subpart, the following terms shall have these meanings unless

12   the context shall otherwise require:

13   (3)(a) "Control", including the terms "controlling", "controlled by", and

14   "under common control with", means the possession, direct or indirect, of the power

15   to direct or cause the direction of the management and policies of a person, whether

16   through the ownership of voting securities, by contract other than a commercial

17   contract for goods or nonmanagement services, or otherwise, unless the power is the

18   result of an official position with or corporate office held by the person.

1 (b)(1) Control shall be presumed to exist if any person, directly or indirectly,

2 owns, controls, holds with the power to vote, or holds proxies representing, ten

3 percent or more of the voting securities of any other person.

4 (2) This presumption may be rebutted by a showing made in the manner

5 provided by R.S. 22:691.4(E) R.S. 22:691.4(F) and 691.6(K) that control does not

6 exist in fact.

7 (c) The commissioner may shall determine that if control exists in fact, and

8 may determine that control exists in fact notwithstanding the absence of a

9 presumption to that effect.

10   *   *   *

11 §691.6. Registration of insurers

12   *   *   *

13 K. Disclaimer. Any person may file with the commissioner a disclaimer of

14 affiliation with any authorized insurer, or such a disclaimer may be filed by such an

15 insurer or any member of an insurance holding company system. The disclaimer

16 shall fully disclose all material relationships and bases for affiliation between such

17 the person and such insurer as well as the basis for disclaiming such affiliation.

18 After a disclaimer has been filed, the insurer shall be relieved of any duty to register

19 or report under pursuant to this Section which may arise out of the insurer's

20 relationship with such the person unless and until the commissioner disallows such

21 a the disclaimer. The commissioner may, in his discretion, determine where control

22 exists. The person filing such a disclaimer shall notify the commissioner of any

23 material change to the affiliations and relationships as reported in the disclaimer

24 within thirty days of the effective date of the change.

25   *   *   *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 232 Original   2020 Regular Session   Seabaugh

Abstract: Authorizes the commissioner of insurance to determine where control within an insurance holding company system exists.

Present law provides for the regulation of insurance holding company systems.

Proposed law retains present law.

Present law defines "control" and provides that control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person.

Proposed law retains present law.

Present law provides that the presumption of control may be rebutted by a showing made in the manner required by present law that control does not exist in fact.

Proposed law retains present law but corrects a citation reference.

Present law authorizes the commissioner of insurance to determine if control exists, in fact, notwithstanding the absence of a presumption to that effect.

Proposed law requires the commissioner to determine if control exists and authorizes him to determine that control exists in fact notwithstanding the absence of a presumption to that effect.

Present law allows any person to file with the commissioner a disclaimer of affiliation with any authorized insurer, or a disclaimer to be filed by an insurer or any member of an insurance holding company system, that fully discloses all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation.

Proposed law retains present law but makes technical changes.

Present law provides that, after a disclaimer has been filed, the insurer is relieved of any duty to register or report which may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer.

Proposed law retains present law but makes technical changes and authorizes the commissioner, in his discretion, to determine where control exists.

Present law requires the person filing a disclaimer to notify the commissioner of any material change to the affiliations and relationships reported in the disclaimer within 30 days of the effective date of the change.

Proposed law retains present law but makes technical changes.

(Amends R.S. 22:691.2(3) and 691.6(K))

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.