

2023 Regular Session

SENATE BILL NO. 208

BY SENATOR TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE COMMISSIONER. Provides for appointment of the commissioner of insurance. (2/3-CA4s(20)) (gov sig)

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AN ACT

To amend and reenact R.S. 18:45(A), 551(B)(1)(c), and 1483(11), R.S. 22:2(A) and 454(B), and R.S. 36:681(C), 682(A), and 683, relative to the commissioner of insurance; to provide for appointment of the commissioner of insurance by the governor and for appointment of deputy commissioners of insurance; to provide for recommendations to the governor for the position of commissioner; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:45(A), 551(B)(1)(c), and 1483(11) are hereby amended and reenacted to read as follows:

§45. Limitations on powers and duties of board

A. The provisions of R.S. 18:43 and 44 shall be applicable only to elections for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, commissioner of agriculture, ~~commissioner of insurance~~, United States senator, United States congressman, public service commissioner, member of the State Board of Elementary and Secondary Education, and justice of the supreme court.

1 * * *

2 §551. Ballots

3 * * *

4 B. Titles of offices. (1) The titles of the offices to be voted on in a primary
5 or general election shall be listed on the ballot in capital letters in the following
6 order:

7 * * *

8 (c) State offices--governor, lieutenant governor, secretary of state, attorney
9 general, treasurer, commissioner of agriculture, ~~commissioner of insurance~~, United
10 States senator, United States representative, justice of the supreme court, judge of a
11 court of appeal, member of the public service commission, member of another state
12 board or commission, and any other state office.

13 * * *

14 §1483. Definitions

15 As used in this Chapter, the following terms shall have the meanings given
16 to each in this Section unless the context clearly indicates otherwise:

17 * * *

18
19 (11) "Major office" means the following offices: governor, lieutenant
20 governor, secretary of state, attorney general, state treasurer, commissioner of
21 agriculture, ~~commissioner of insurance~~, the superintendent of education, public
22 service commissioner, justice of the supreme court, court of appeal judge, district
23 court judge in a judicial district comprised of a single parish with a population in
24 excess of four hundred fifty thousand persons as determined by the most recently
25 published decennial federal census where the election district is parishwide, as long
26 as these offices are elective offices, and any candidate for office with an election
27 district containing a population in excess of two hundred fifty thousand persons as
28 determined by the most recently published decennial federal census.

29 * * *

1 Section 2. R.S. 22:2(A) and 454(B) are hereby amended and reenacted to read
2 as follows:

3 §2. Insurance regulated in the public interest

4 A.(1) Insurance is an industry affected with the public interest and it is the
5 purpose of this Code to regulate that industry in all its phases. Pursuant to the
6 authority contained in the Constitution of Louisiana, the office of the commissioner
7 of insurance is created **and the commissioner of insurance shall be appointed by**
8 **the governor subject to Senate confirmation for a term of six years. The person**
9 **appointed commissioner shall not serve as commissioner for more than two**
10 **consecutive six-year terms.** It shall be the duty of the commissioner of insurance
11 to administer the provisions of this Code. ~~The term of office of the commissioner~~
12 ~~shall be four years and said officer shall be elected at the election for governor and~~
13 ~~other state officers.~~

14 (2) ~~The commissioner shall appoint a chief deputy commissioner and also an~~
15 ~~assistant to the commissioner, both of whom shall serve at his pleasure and whose~~
16 ~~salaries and duties shall be fixed by him.~~

17 (3) ~~The chief deputy commissioner shall have the authority to~~ **may** perform
18 all the acts and duties of the office of the commissioner of insurance in the absence
19 of the commissioner of insurance, ~~in case of his inability to act,~~ or under his
20 direction.

21 **(3)(a) The commissioner of insurance shall be appointed by the governor**
22 **from a list of nominees submitted by a nominating committee comprised of the**
23 **following members:**

24 **(i) One member appointed from the state at large by the state treasurer.**

25 **(ii) One member appointed by the Speaker of the House of**
26 **Representatives from the membership of the House Committee on Insurance.**

27 **(iii) One member appointed by President of the Senate from the**
28 **membership of the Senate Committee on Insurance.**

29 **(iv) One member appointed from the state at large by the attorney**

1 **general.**

2 **(v) One member appointed by the governor from the Louisiana Bankers**
3 **Association.**

4 **(vi) One member appointed by the governor from the Louisiana Home**
5 **Builders Association.**

6 **(vii) One member appointed by the governor from the Louisiana**
7 **Chapter of the National Association of Insurance and Financial Advisors.**

8 **(viii) Two members appointed by the governor from the state at large.**

9 **(b) The nominating committee shall submit three names of eligible**
10 **nominees to the governor within sixty days after the governor takes office or**
11 **within sixty days after a vacancy occurs in the office of the commissioner of**
12 **insurance. No person shall be recommended by the nominating committee to the**
13 **governor unless approved by a majority of the members of the nominating**
14 **committee.**

15 **(4) The commissioner of insurance shall:**

16 **(a) Be selected with special reference to his or her training, experience,**
17 **capacity, and professional or business experience reasonably adequate in**
18 **character and scope to discharge the responsibilities of commissioner.**

19 **(b) Have at least five of years practical experience in one or more types**
20 **of insurance regulated by the department or in administration, sales, servicing,**
21 **or regulation of insurance.**

22 **(c) Not hold any other public office of the state, whether elected or**
23 **appointed.**

24 **(d) Possess no financial interest, directly or indirectly, in any insurer,**
25 **agency, or other entity that is regulated by the department, or engage in any**
26 **insurance transaction, except as a policyholder or claimant under a policy.**

27 **(e) Not have been an employee, officer, or shareholder of, or have any**
28 **equity interest in, an insurer that has been declared insolvent or which insurer**
29 **has been prevented from doing business in any state.**

1 **(5) The commissioner of insurance shall be removed from office under**
2 **any one of the following circumstances:**

3 **(a) The person does not possess the qualifications to be appointed**
4 **commissioner at the time of his appointment.**

5 **(b) The person fails to comply with all the qualifications required for the**
6 **position of commissioner during service as commissioner.**

7 **(c) The person is in violation of the Louisiana Code of Governmental**
8 **Ethics.**

9 **(d) The person is convicted of malfeasance in office.**

10 **(e) The person has demonstrated incompetence while in office.**

11 **(f) The person has failed to discharge his duties as commissioner in a**
12 **manner consistent with the regulatory purpose and requirements of the**
13 **Louisiana Insurance Code.**

14 **(g) The person is unable to discharge his duties as commissioner for a**
15 **substantial part of his term in office due to illness or disability.**

16 * * *

17 §454. Insolvency deposit

18 * * *

19 B. Each receipt or other evidence of deposit or security shall contain a
20 restriction which shall read as follows:

21 "ACKNOWLEDGEMENT OF RESTRICTION

22 The cash or other deposit evidenced by this receipt shall be held by the issuer
23 or its successors or assigns, to demonstrate to the Louisiana Department of Insurance
24 that the owner-payee of the receipt is financially responsible and capable of
25 performing its obligations as a self-insurer. This certificate shall be renewed and
26 renegotiated between the issuer and the owner-payee without the necessity of the
27 receipt's release or surrender and funds evidenced hereby shall remain on deposit at
28 or with the issuing institution, its successors or assigns, until notice of release or a
29 demand of payment signed by the duly authorized ~~elected incumbent~~ commissioner

1 of insurance of the state of Louisiana, or his duly authorized deputy, has been
 2 presented to issuer. Any issuer making payment to the commissioner upon his
 3 written demand and upon a showing of good cause shall not be liable in any manner
 4 to the owner-payee or any other person for having made such disbursement of funds.
 5 Interest earned on the funds evidenced hereby shall be paid to the owner-payee on
 6 a regular periodic basis as agreed to by the issuer and the owner-payee."

7 * * *

8 Section 3. R.S. 36:681(C), 682(A), and 683 are hereby amended and reenacted to
 9 read as follows:

10 §681. Department of Insurance; creation; domicile; purposes and functions

11 * * *

12 C.(1) The officers of the department shall be the commissioner of insurance;
 13 the chief deputy commissioner, ~~if one is appointed~~; the deputy commissioner for
 14 management and finance; the deputy commissioner for policy, innovation, and
 15 research; the deputy commissioner for property and casualty; the deputy
 16 commissioner for insurance fraud; the deputy commissioner for licensing; the deputy
 17 commissioner for financial solvency; the deputy commissioner for health, life, and
 18 annuity; the deputy commissioner for public affairs; the deputy commissioner for
 19 consumer services; the deputy commissioner for consumer advocacy and diversity;
 20 the assistant commissioner of diversity and opportunity; and the executive counsel.

21 (2) ~~With the exception of the commissioner of insurance, each~~ **Each deputy**
 22 **commissioner** shall be appointed by the commissioner of insurance ~~with the consent~~
 23 ~~of the Senate~~ and shall serve at the pleasure of the commissioner of insurance, at a
 24 salary fixed by the commissioner, which salary shall not exceed the amount
 25 approved for such position by the legislature while in session. Their duties and
 26 functions shall be determined and assigned by the commissioner of insurance and as
 27 provided in this Title.

28 (3) ~~If a chief deputy commissioner is appointed, he shall be the first assistant~~
 29 ~~to the commissioner of insurance appointed pursuant to Article IV, Section 13 of the~~

1 ~~Constitution of Louisiana. If a chief deputy commissioner is not appointed, the~~
2 ~~commissioner of insurance shall appoint his first assistant to one of the offices of~~
3 ~~deputy commissioner.~~

4 * * *

5 §682. Commissioner of insurance; powers and duties

6 A. The commissioner of insurance, **appointed by the governor as provided**
7 **in R.S. 22:2**, shall serve as the executive head and chief administrative officer of the
8 Department of Insurance and shall have the responsibility for the policies of the
9 department and for the administration, control, and operation of the functions,
10 programs, and affairs of the department, to the extent provided by this Title.

11 * * *

12 §683. Chief deputy commissioner

13 There may be a chief deputy commissioner of the department, who shall be
14 appointed by the commissioner of insurance ~~with consent of the Senate~~ and who
15 shall serve at the pleasure of the commissioner of insurance in the office of the
16 commissioner, at a salary fixed by the commissioner of insurance, which salary shall
17 not exceed the amount approved for ~~such~~ **the** position by the legislature while in
18 session. ~~The chief deputy shall be the first assistant of the commissioner of insurance~~
19 ~~appointed pursuant to Article IV, Section 13 of the Constitution of Louisiana.~~ The
20 duties and functions of the chief deputy commissioner shall be determined and
21 assigned by the commissioner of insurance. The chief deputy shall serve as acting
22 commissioner of insurance in the absence of the commissioner as provided by law.

23 Section 4. The provisions of this Act shall be implemented upon expiration of the
24 term of office of the elected commissioner of insurance in office on the effective date of this
25 Act or whenever a vacancy occurs in the office, whichever occurs first. If a vacancy occurs
26 prior to the expiration of the term of office of the incumbent commissioner, the first assistant
27 of the commissioner shall serve until an appointment is made to fill the office in the manner
28 provided in this Act.

29 Section 5. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 208 Original 2023 Regular Session Talbot

Present law provides for elections integrity investigations by the Board of Ethics and provides for the state offices to which the powers and duties of the board apply.

Proposed law removes the commissioner of insurance from provisions in the election code regulating the election of the commissioner of insurance, particularly from the definition of a state office and a major office under the code.

Present law creates the office of the commissioner of insurance to administer the provisions of the Louisiana Insurance Code. Provides for election of the commissioner for a four-year term.

Proposed law provides for the appointment by the governor of the commissioner of insurance, subject to Senate confirmation, to serve a term of six years. The person appointed shall not serve more than two consecutive six-year terms as commissioner.

Present law requires the commissioner to appoint a chief deputy commissioner and an assistant commissioner both of whom serve at his pleasure.

Proposed law authorizes the commissioner to appoint a chief deputy who may perform the duties of the commissioner in the absence of the commissioner.

Proposed law requires that the governor appoint a commissioner of insurance from a list of nominees submitted by a nominating committee comprised of the following:

- (1) One member appointed from the state at large by the state treasurer.
- (2) One member appointed by the Speaker of the House of Representatives from the membership of the House Committee on Insurance.
- (3) One member appointed by the President of the Senate from the membership of the Senate Committee on Insurance.
- (4) One member appointed from the state at large by the attorney general.
- (5) One member appointed by the governor from the Louisiana Bankers Association.
- (6) One member appointed by the governor from the Louisiana Home Builders Association.
- (7) One member appointed by the governor from the Louisiana Chapter of the National Association of Insurance and Financial Advisors.
- (8) Two members appointed by the governor from the state at-large.

Proposed law requires that the nominating committee submit three names of eligible nominees to the governor within sixty days after the governor takes office or within sixty days after a vacancy occurs in the office of the commissioner of insurance. Requires that no person be recommended by the nominating committee unless approved by a majority of the members of the nominating committee.

Proposed law requires that the commissioner:

- (1) Be selected with special reference to his or her training, experience, capacity, and professional or business experience reasonably adequate in character and scope to discharge and responsibilities of commissioner.
- (2) Have at least five years' practical experience in one or more types of insurance regulated by the department or in administration, sales, servicing, or regulation of insurance.
- (3) Not hold any other public office of the state, whether elected or appointed.
- (4) Possess no financial interest, directly or indirectly, in any insurer, agency, or other entity that is regulated by the department, or engage in any insurance transaction, except as a policyholder or claimant under a policy.
- (5) Not have been an employee, officer, or shareholder of, or have any equity interest in, an insurer that has been declared insolvent or which insurer has been prevented from doing business in any state.

Proposed law provides for removal of the commissioner for any one of the following reasons:

- (1) The person does not possess the qualifications to be appointed commissioner at the time of his appointment.
- (2) The person fails to comply with all the qualifications required for the position of commissioner during service as commissioner.
- (3) The person is in violation of the Louisiana Code of Governmental Ethics.
- (4) The person is convicted of malfeasance in office.
- (5) The person has demonstrated incompetence while in office.
- (6) The person has failed to discharge his duties as commissioner in a manner consistent with the regulatory purpose and requirements of the Louisiana Insurance Code.
- (7) The person is unable to discharge his duties as commissioner for a substantial part of his term in office due to illness or disability.

Proposed law is to be implemented upon expiration of the term of office of the elected commissioner of insurance in office on the effective date of proposed law or whenever a vacancy occurs in the office, whichever occurs first. Provides that if a vacancy occurs prior to the expiration of the term of office of the incumbent commissioner, the first assistant of the commissioner shall serve until an appointment is made to fill the office in the manner provided in proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 18:45(A), 551(B)(1)(c), and 1483(11), R.S. 22:2(A) and 454(B); and R.S. 36:681(C), 682(A), and 683)