

2023 Regular Session

SENATE BILL NO. 143

BY SENATOR HENRY

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

INSURERS. Provides for former officers or insolvent insurers. (8/1/23)

AN ACT

To enact R.S. 22:41.3(F) and (G), and 337(F) and (G), relative to licensing of certain insurers; to provide certain requirements for letters of no objection; to provide certain requirements for certificates of authority; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:41.3(F) and (G), and 337(F) and (G) are hereby enacted to read as follows:

§41.3. Requirements for officers and directors of domestic regulated entities

\* \* \*

**F.(1) Except as provided in Paragraph (2) of this Subsection, the commissioner shall refuse to issue or rescind a letter of no objection as provided in Paragraph (C)(1) of this Section, if he finds that the person served as an officer, director, or person with direct or indirect control over the selection or appointment of an officer or director through contract, trust, or by operation of law of an insurer doing business in this state, and the person served in that capacity within the two-year period prior to the date the insurer became insolvent, unless the person demonstrates that his personal actions and**

1 omissions were not a significant contributing cause to the insolvency, as  
2 determined by the commissioner.

3 (2) The commissioner may issue a letter of no objection to a former  
4 officer, director, or person with direct or indirect control over the selection or  
5 appointment of an officer or director of an insurer that became insolvent  
6 provided at least five years have passed from the date the insurer became  
7 insolvent.

8 G. For the purpose of this Section, "personal action" means any breach  
9 of the responsibilities, obligations, or duties imposed upon a person by virtue of  
10 his position.

11 \* \* \*

12 §337. Refusal, suspension, and revocation of certificate of authority

13 \* \* \*

14 F.(1) Except as provided in Paragraph (2) of this Subsection, the  
15 commissioner shall refuse to issue, suspend, or revoke the certificate of  
16 authority of a foreign or alien insurer if he finds that a person serving as an  
17 officer, director, or person with direct or indirect control over the selection or  
18 appointment of an officer or director through contract, trust, or by operation  
19 of law of an insurer doing business in this state, and the person served in that  
20 capacity within the two-year period prior to the date the insurer became  
21 insolvent, unless the person demonstrates that his personal actions and  
22 omissions were not a significant contributing cause to the insurer's insolvency,  
23 as determined by the commissioner.

24 (2) The commissioner may issue a certificate of authority to a foreign or  
25 alien insurer if he finds that a former officer, director, or person with direct or  
26 indirect control over the selection or appointment of an officer or director of an  
27 insurer that became insolvent provided at least five years have passed from the  
28 date the insurer became insolvent.

1                    **G. For the purpose of this Section, "personal action" means any breach**  
 2                    **of the responsibilities, obligations, or duties imposed upon a person by virtue of**  
 3                    **his position.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.

DIGEST

SB 143 Engrossed

2023 Regular Session

Henry

Present law authorizes the commissioner of insurance (commissioner) may refuse to issue or rescind a letter of no objection if he finds the officer or director does not meet certain requirements provided by present law.

Proposed law retains present law but adds the commissioner is required to refuse or rescind a letter of no objection if the person was a former officer, director, or had direct or indirect control over selecting or appointing an officer or director through contract, trust, or by operation of law of an insurer doing business in this state and the person served in that capacity within a two-year period before the insurer went insolvent, unless the person can demonstrate to the commissioner that his personal actions and omissions were not a significant contributing cause of the insurer's insolvency.

Proposed law retains present law but authorizes the commissioner to issue a certificate of authority to a foreign or alien insurer if the person serving in the capacity listed in proposed law if at least five years have passed since the date of the insurer's insolvency.

Proposed law defines a personal action.

Present law authorizes the commissioner to suspend or revoke a foreign or alien insurer if certain legal requirements have not been met.

Proposed law retains present law but requires the commissioner to refuse to issue, suspend, or revoke the certificate of authority if a person serving as a former officer, director, or had direct or indirect control over selecting or appointing an officer or director through contract, trust, or by operation of law of an insurer doing business in this state and the person served in that capacity within a two-year period before the insurer went insolvent, unless the person can demonstrate to the commissioner that his personal actions and omissions were not a significant contributing cause of the insurer's insolvency.

Proposed law defines a personal action.

Proposed law retains present law but authorizes the commissioner to issue a certificate of authority to a foreign or alien insurer if the person who served in a manner listed in proposed law if at least five years have passed since the date of the insurer's insolvency.

Effective August 1, 2023.

(Adds R.S. 22:41.3(F) and (G), and 337(F) and (G))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Removes actions ministerial in nature or based on apparent lawful orders given to an individual by the board of directors or other person having authority to direct one's action or provide legal advice as an exception to the definition of "personal action".
2. Makes technical changes.