

2016 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVE THIBAUT

1 AN ACT

2 To amend and reenact R.S. 22:1573(A), (C) through (E), and (G) and R.S. 44:4.1(B)(11) and  
3 to enact R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana  
4 Revised Statutes of 1950, to be comprised of R.S. 22:1808.1 through 1808.13,  
5 relative to the licensing and regulation of insurance consultants by the commissioner  
6 of insurance; to provide for licensing and renewals; to provide for definitions; to  
7 provide for fees; to provide for qualifications; to provide for examinations; to  
8 provide for continuing education requirements; to provide for reciprocity with other  
9 states; to provide for confidentiality; to provide for public records exception; to  
10 provide for exemptions from certain requirements; to provide for civil and criminal  
11 penalties for certain violations; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:1573(A), (C) through (E), and (G) are hereby amended and  
14 reenacted and R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana  
15 Revised Statutes of 1950, comprised of R.S. 22:1808.1 through 1808.13, are hereby enacted  
16 to read as follows:

17 §821. Fees

18 \* \* \*

19 B. The following fees and licenses shall be collected in advance by the  
20 commissioner of insurance:

21 \* \* \*

1                   (38) For insurance consultants' licenses:

2                   (a) Life, health, and accident consultant; variable annuity  
3   consultant

4   First time applicant. . . . . \$75.00

5   Consultant renewal fee (every two years). . . \$50.00

6                   (b) Property and casualty consultant

7   First time applicant. . . . . \$75.00

8   Consultant renewal fee (every two years). . . \$50.00

9   \*       \*       \*

10               §1573. Continuing education requirements

11                   A. The continuing education requirements for renewal of license under R.S.  
12                   22:1547(C)(3) and 1808.4(C)(3) are set forth in this Section. The continuing  
13                   education requirement shall be fulfilled by satisfactory completion of the required  
14                   hours of instruction in continuing education programs approved by the  
15                   commissioner.

16   \*       \*       \*

17                   C. Life insurance producers and consultants and health insurance producers  
18                   and consultants shall complete twenty-four hours of approved instruction or  
19                   verifiable approved self-study prior to each renewal of license, with at least three  
20                   hours dedicated to the subject of ethics. A person who holds a combination of life  
21                   or health insurance producer licenses and life or health consultant licenses shall  
22                   complete a total of twenty-four hours of approved instruction or verifiable approved  
23                   self-study, with at least three hours dedicated to the subject of ethics.

24                   D. Insurance producers authorized to write property, casualty, or property  
25                   and casualty or personal lines insurance business and property, casualty, or property  
26                   and casualty insurance consultants shall complete twenty-four hours of approved  
27                   instruction or verifiable approved self-study before each renewal of license with at  
28                   least three hours of approved instruction dedicated to the subject of ethics and three  
29                   hours dedicated to the subject of flood insurance. A person who holds a combination  
30                   of property, casualty, or property and casualty insurance producer licenses and

1 property, casualty, or property and casualty consultant licenses, shall complete a total  
2 of twenty-four hours of approved instruction or verifiable approved self-study, with  
3 at least three hours dedicated to the subject flood insurance.

4 E. For producers authorized to write life, health and accident insurance and  
5 also authorized to write property, casualty, or property and casualty or personal lines  
6 insurance business, and consultants authorized to consult on life, health and accident  
7 insurance and also authorized to consult on property, casualty, or property and  
8 casualty or personal lines insurance business, the continuing education requirement  
9 for renewal of license shall be twenty-four hours of approved instruction or verifiable  
10 approved self-study with at least three hours of approved instruction or verifiable  
11 approved self-study dedicated to the subject of ethics and three hours dedicated to  
12 the subject of flood insurance. Persons who hold a combination of life, health and  
13 accident, property, casualty, or property and casualty insurance producer licenses and  
14 life, health and accident, property, casualty, or property and casualty consultant  
15 licenses shall complete a total of twenty-four hours of approved instruction or  
16 verifiable approved self-study, with at least three hours dedicated to the subject of  
17 ethics and three hours dedicated to the subject of flood insurance.

18 \* \* \*

19 ~~G. No more than ten excess hours of approved life and health and accident~~  
20 ~~insurance instruction accumulated during one renewal period may be carried forward~~  
21 ~~and applied to the continuing education requirement for the next renewal period~~  
22 Producers and consultants licensed for life, health and accident, property, casualty  
23 or personal lines may carry over no more than ten excess hours of approved  
24 insurance instruction accumulated during one renewal period to be applied to the  
25 continuing education requirement for the next renewal period.

26 \* \* \*

27 PART XII. INSURANCE CONSULTANTS

28 §1808.1. License required

29 A. No person shall act as, or hold himself out to be, an insurance consultant  
30 unless licensed by the Department of Insurance.

1           B.(1) "Insurance consultant" means any person or entity which offers for a  
2           fee or other valuable consideration any advice, counsel, opinion, or related services  
3           with respect to risk evaluation or management, the benefits, coverages, exclusions,  
4           or provisions under any policy of insurance to be issued in this state, or involving the  
5           advantages or disadvantages of any such policy of insurance, or any formal plan of  
6           managing risk.

7           (2) "Insurance consultant" for the purposes of this Part shall not include:

8           (a) Attorneys while working in the capacity of an attorney.

9           (b) Litigation support or insurance expert witness services related to litigated  
10          matters.

11          (c) Claims adjusters.

12          (d) Public adjusters, appraisers, contractors, or engineers engaged in the  
13          settlement of insurance claims, who do not have a direct or indirect financial interest  
14          in any aspect of the claim, other than the compensation established in the written  
15          contract with the insured.

16          (e) A licensed insurance producer who offers advice or consulting with  
17          respect to any of the following, regardless of whether the insurance producer is  
18          compensated by commission or agency fees for such advice, consulting, or services:

19          (i) Risk evaluation or management, risk transfer, self-insurance, self-insured  
20          retention programs.

21          (ii) The benefits, coverages, exclusions, or provisions under any policy of  
22          insurance.

23          (iii) The advantages or disadvantages of any policy of insurance or plan of  
24          managing risk.

25          (iv) Any other advice, consulting, or related policyholder services in  
26          conjunction with risk and insurance programs provided as an insurance producer.

27          (f) Loss control and accident prevention consultants.

28          (g) Certified public accountants while working in their capacity as an  
29          accountant.

1                   (h) Actuaries who are members of the American Academy of Actuaries  
2                   (MAAA).

3                   §1808.2. Examination

4                   A. A resident individual applying for an insurance consultant license shall  
5                   pass an examination unless exempt pursuant to R.S. 22:1808.6. The examination  
6                   shall test the knowledge of the individual concerning the lines of authority for which  
7                   application is made, the duties and responsibilities of an insurance consultant, and  
8                   the insurance laws and regulations of this state. Examinations required by this Part  
9                   shall be developed and conducted under rules and regulations prescribed by the  
10                  commissioner of insurance.

11                  B.(1) If the applicant is a partnership, corporation, or other business entity,  
12                  the examination shall be taken by each individual who is to be named in or registered  
13                  on the license for the partnership, corporation, or other business entity and who is  
14                  engaged in insurance consulting, and by all insurance consultant employees of such  
15                  entity.

16                  (2) Each line of insurance which the applicant proposes to consult under the  
17                  license applied for shall require an examination to be taken.

18                  (3) The applicant shall pass the examination with a score at or above seventy  
19                  percent to indicate a satisfactory knowledge and understanding of each line of  
20                  insurance for which the applicant seeks qualification.

21                  C.(1) Prior to taking the examination required by this Part, any person  
22                  applying for a license as an insurance consultant shall file with the Department of  
23                  Insurance, in a manner prescribed by the commissioner of insurance, certification  
24                  that the applicant has completed a registered prelicensing program certified by the  
25                  commissioner pursuant to R.S. 22:1571.

26                  (2) A person applying for a license as an insurance consultant for  
27                  authorization to consult on life insurance shall be exempt from any prelicensing  
28                  education requirements if he has one of the following designations:

29                   (a) Certified Employee Benefit Specialist (CEBS).

30                   (b) Chartered Financial Consultant (ChFC).

1                    (c) Certified Insurance Counselor (CIC).

2                    (d) Certified Financial Planner (CFP).

3                    (e) Chartered Life Underwriter (CLU).

4                    (f) The Fellow, Life Management Institute (FLMI).

5                    (g) The Life Underwriting Training Council Fellow Designation (LUTCF).

6                    (3) A person applying for a license as an insurance consultant for  
 7 authorization to consult on health and accident insurance shall be exempt from any  
 8 prelicensing education requirements if he has one of the following designations:

9                    (a) Registered Health Underwriter (RHU).

10                   (b) Certified Employee Benefit Specialist (CEBS).

11                   (c) Registered Employee Benefits Consultant (REBC).

12                   (d) Health Insurance Associate (HIA).

13                   (e) Chartered Healthcare Consultant (ChHC).

14                   (4) A person applying for a license as an insurance consultant for  
 15 authorization to consult on property or casualty insurance shall be exempt from any  
 16 prelicensing education requirements if he has one of the following designations:

17                   (a) Accredited Advisor in Insurance Program (AAI).

18                   (b) Associate in Risk Management (ARM).

19                   (c) Certified Risk Manager (CRM).

20                   (d) Certified Insurance Counselor (CIC).

21                   (e) Chartered Property and Casualty Underwriter (CPCU).

22                   (f) Certified Workers' Compensation Professional (CWCP).

23                   (5) A person applying for a license as an insurance consultant to consult on  
 24 any line of insurance and having a bachelor's degree or higher from an accredited  
 25 college or university with major course work in insurance shall be exempt from any  
 26 prelicensing education requirements.

27                   (6) A person who already holds an insurance producer license for a line of  
 28 business shall be exempt from any prelicensing education and examination  
 29 requirements for an insurance consultant license for the same line of business.

1           D. All examinations shall be conducted frequently and at a place or places  
2           reasonably accessible to all applicants. The commissioner of insurance shall  
3           promulgate reasonable rules and regulations providing the procedure for the  
4           examinations.

5           E. The content of the examination may be outlined in the licensing  
6           information handbook provided to applicants by the Department of Insurance,  
7           publishers of examination study materials, any prelicensing providers, and others  
8           wishing to provide this information.

9           F. The commissioner may contract, in accordance with R.S. 39:1551 et seq.,  
10          with one or more private testing services for administering examinations and  
11          collecting examination fees. The commissioner may require that the applicant pay  
12          the cost of the examination directly to the testing firm.

13          G. A person who fails to appear for the examination as scheduled, or fails  
14          to pass the examination, shall reapply for an examination and remit all required fees  
15          and forms before being rescheduled for another examination.

16          H. The commissioner of insurance may provide to a testing service provider  
17          under contract with the Department of Insurance any demographic information  
18          received by the department on applications relating to examinations taken to qualify  
19          for an insurance consultant license if the commissioner requires the provider to  
20          review and analyze examination results in conjunction with the education level,  
21          gender, native language, race, or ethnicity of examinees.

22          §1808.3. Application for license

23          A. A person applying for a resident insurance consultant license shall apply  
24          to the commissioner of insurance on the application promulgated by the Department  
25          of Insurance and declare under penalty of refusal, suspension, or revocation of the  
26          license that the statements made in the application are true, correct, and complete to  
27          the best of the individual's knowledge and belief. Before approving the application,  
28          the commissioner shall find that the individual:

29                 (1) Is at least eighteen years of age.

1                   (2) Resides in the state or maintains his principal place of business in the  
 2                   state.

3                   (3) Is not disqualified for having committed any act that is a ground for  
 4                   denial, suspension, or revocation as set forth in R.S. 22:1808.8.

5                   (4) Has completed a prelicensing course of study for the lines of authority  
 6                   for which the person has applied, if required.

7                   (5) Has paid the fees set forth in R.S. 22:821.

8                   (6) Has successfully passed the examinations for the lines of authority for  
 9                   which the person has applied.

10                  (7) When applicable, has the written consent of the commissioner of  
 11                  insurance pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by  
 12                  or affecting persons engaged in the business of insurance whose activities affect  
 13                  interstate commerce.

14                  B.(1)(a) A business entity acting as an insurance consultant is required to  
 15                  obtain an insurance consultant license. Every member, partner, officer, director,  
 16                  stockholder, and employee of the business entity personally engaged in this state in  
 17                  insurance consulting shall be registered with the Department of Insurance under such  
 18                  business entity's license, and each such member, partner, officer, director,  
 19                  stockholder, or employee shall also qualify as an individual licensee for any line of  
 20                  insurance consulting the business entity is licensed to transact. Licensing of any  
 21                  limited liability company or limited liability partnership as an insurance consultant  
 22                  is subject to prior approval of the commissioner of insurance.

23                  (b) The business entity licensee shall notify the commissioner of insurance  
 24                  within thirty days of any change of status of an individual who is registered under  
 25                  the business entity license.

26                  (c) Any business entity operating at more than one location shall notify the  
 27                  commissioner of insurance of each permanent branch location address within thirty  
 28                  days from the date of the opening of the new location. There shall be at least one  
 29                  individual licensed insurance consultant registered with the Department of Insurance  
 30                  for each branch location.



1           (d) Any business entity which fails to comply with this Subsection shall be  
2           subjected to a fine of one hundred dollars for each violation. Any entity against  
3           which a fine has been levied shall be given due notice of such action. Upon receipt  
4           of this notice, the entity may apply for and shall be entitled to a hearing in  
5           accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

6           (2) Application shall be made using the application promulgated by the  
7           Department of Insurance. Before approving the application, the commissioner of  
8           insurance shall find that:

9                   (a) The business entity has paid the fees set forth in R.S. 22:821.

10                   (b) The business entity has designated one or more licensed individual  
11                   consultants responsible for the business entity's compliance with the insurance laws,  
12                   rules, and regulations of this state.

13           (3) When completing the background information portion of the application  
14           pertaining to the disclosure of certain lawsuits or arbitration proceedings,  
15           corporations, banks, partnerships, and directors shall disclose those proceedings  
16           occurring within the past five years which are considered to be material under  
17           generally accepted accounting principles for purposes of financial statement  
18           disclosure.

19           C.(1) The commissioner of insurance may require any documents deemed  
20           necessary to verify the information contained in an application.

21           (2)(a) In order to make a determination of license eligibility, the  
22           commissioner of insurance shall require a full set of fingerprints from each applicant  
23           and shall submit the fingerprints and the fees required to perform the criminal history  
24           record checks to the Louisiana Bureau of Criminal Identification and Information for  
25           state and national criminal history record checks.

26           (b) The commissioner of insurance may contract for the collection,  
27           transmission, and re-submission of fingerprints required pursuant to this Part. If the  
28           commissioner of insurance does so, the fee for collecting and transmitting  
29           fingerprints and the fee for the criminal history record check shall be payable directly

1           to the contractor by the applicant. The commissioner of insurance may agree to a  
 2           reasonable fingerprinting fee to be charged by the contractor.

3           (c)(i) The commissioner of insurance shall treat and maintain an applicant's  
 4           fingerprints and any criminal history record information obtained pursuant to this  
 5           Part as confidential and shall apply security measures consistent with the Criminal  
 6           Justice Information Services Division of the Federal Bureau of Investigation  
 7           standards for the electronic storage of fingerprints and necessary identifying  
 8           information and limit the use of records solely to the purposes authorized in this Part.

9           (ii) The fingerprints and any criminal history record information shall be  
 10          exempt from the Public Records Law, R.S. 44:1 et seq., shall not be subject to  
 11          subpoena, other than a subpoena issued in a criminal proceeding or investigation,  
 12          shall be confidential by law and privileged, and shall not be subject to discovery or  
 13          admissible in evidence in any private civil action.

14          D. Any license issued pursuant to an application claiming residency, as  
 15          defined in R.S. 22:46, shall constitute an election of residency in the state, and shall  
 16          be void if the licensee while maintaining a resident license also maintains a license  
 17          in, or thereafter submits an application for a license in, any other state or other  
 18          jurisdiction stating that the applicant is a resident of such other state or jurisdiction,  
 19          or if the licensee ceases to be a resident of this state.

20          §1808.4. License

21          A. Unless denied licensure pursuant to R.S. 22:1808.8, persons who have  
 22          met the requirements of this Part shall be issued an insurance consultant license. An  
 23          insurance consultant may receive qualification for a license in one or more of the  
 24          following lines of authority:

25                 (1) Life, which provides insurance coverage on human lives including  
 26                 benefits of endowment and annuities, and may include benefits in the event of death  
 27                 or dismemberment by accident and benefits for disability income.

28                 (2) Health and accident, which provides insurance coverage for sickness,  
 29                 bodily injury, or accidental death, and may include benefits for disability income.

30                 (3) Variable life and variable annuity products.

1           (4) Property, which provides insurance coverage for the direct or  
2           consequential loss or damage to property of every kind.

3           (5) Casualty, which provides insurance coverage against legal liability,  
4           including that for death, injury or disability, or damage to real or personal property.

5           B. Subject to the requirements of Subsection C of this Section, an insurance  
6           consultant license shall remain in effect, unless revoked, suspended, or denied  
7           renewal or reinstatement, as long as all applicable fees are paid and education  
8           requirements are satisfied, until the license expires or is surrendered by the holder  
9           thereof.

10           C.(1) Every licensed consultant shall file an application for renewal of his  
11           license every two years, by notifying the commissioner of insurance, by methods  
12           prescribed by the commissioner, of the licensee's intention to renew his license as a  
13           consultant.

14           (2) Any licensee who fails to file timely for license renewal shall be charged  
15           a late fee as authorized by R.S. 22:821.

16           (3)(a) Prior to the filing date for the application for renewal of a license, the  
17           licensee shall comply with the continuing education requirements in R.S. 22:1573  
18           for the lines of insurance being renewed.

19           (b) Such consultant shall file with the commissioner of insurance, by a  
20           method prescribed by the commissioner, satisfactory certification of completion of  
21           the continuing education requirements.

22           (c) Any failure to fulfill the continuing education requirements shall result  
23           in the expiration of the license.

24           D. An insurance consultant who allows his license to lapse may, within two  
25           years from the expiration date of the license, reinstate the same license upon proof  
26           of fulfilling all continuing education requirements through the date of reinstatement  
27           and upon payment of all fees due. If the license has been lapsed for more than two  
28           years, the applicant shall fulfill the requirements for issuance of a new license.

29           E. A licensed insurance consultant who is unable to comply with license  
30           renewal procedures due to military service or other extenuating circumstance, such

1           as a long-term medical disability, may request a waiver of those procedures. The  
2           consultant may also request a waiver of any examination requirement or any other  
3           fine or sanction imposed for failure to comply with renewal procedures.

4           F. The license shall state the name and mailing address of the licensee, date  
5           of issuance, the renewal or expiration date, the line or lines of insurance covered by  
6           the license, and such other information as the commissioner of insurance deems  
7           necessary.

8           G. Every licensee shall notify the commissioner, by any means acceptable  
9           to the commissioner, of any change of address, legal name, or information submitted  
10          on the application within thirty days of the change. Failure to file such change  
11          within the required time shall result in the imposition of a fifty-dollar penalty per  
12          violation. Any person against whom a penalty has been levied shall be given due  
13          notice of such action. Upon receipt of this notice, the licensee may apply for and  
14          shall be entitled to a hearing in accordance with Chapter 12 of this Title, R.S.  
15          22:2191 et seq.

16          H. A duplicate license may be issued for any lost, stolen, or destroyed  
17          license issued pursuant to this Part upon a request by the licensee, by a method  
18          prescribed by the commissioner, setting forth the facts of such loss, theft, or  
19          destruction, together with a fee as authorized by R.S. 22:821.

20          I. In order to assist in the performance of the commissioner's duties, the  
21          commissioner may contract with nongovernmental entities, including the National  
22          Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that  
23          the NAIC oversees, to perform any ministerial functions, including the collection of  
24          fees, related to consultant licensing that the commissioner and the nongovernmental  
25          entity may deem appropriate.

26          §1808.5. Nonresident licensing

27          A. Unless denied licensure pursuant to R.S. 22:1808.8, a nonresident person  
28          shall receive a nonresident consultant license if:

29                  (1) The person is currently licensed as a resident for an equivalent license  
30                  and in good standing in his home state.

1           (2) The person has submitted the proper request for licensure and has paid  
2           the fees required by R.S. 22:821.

3           (3) The person has submitted or transmitted to the commissioner of  
4           insurance the application for licensure that the person submitted to his home state.

5           (4) The person's home state awards nonresident consultant licenses to  
6           residents of this state on the same basis.

7           B.(1) The commissioner of insurance may verify the consultant's licensing  
8           status through the consultant database maintained by the National Association of  
9           Insurance Commissioners, its affiliates, or subsidiaries.

10           (2) Whenever, by the laws or regulations of any other state or jurisdiction,  
11           any limitation of rights and privileges, conditions precedent, or any other  
12           requirements are imposed upon residents of this state who are nonresident applicants  
13           or licensees of such other state or jurisdiction in addition to, or in excess of, those  
14           imposed on nonresidents pursuant to this Part, the same requirements shall be  
15           imposed upon such residents of such other state or jurisdiction.

16           (3)(a) The commissioner of insurance shall not issue a license to any  
17           nonresident applicant until such applicant has filed forms approved by the  
18           commissioner which designate the commissioner as his true and lawful agent, upon  
19           whom may be served all lawful process in any action, suit, or proceeding instituted  
20           by or on behalf of any interested person arising out of the applicant's insurance  
21           business in this state. The designation shall constitute an agreement that such service  
22           of process has the same legal force and validity as personal service of process upon  
23           the person in the state.

24           (b) The service of process upon any such licensee in any action or  
25           proceeding in any court of competent jurisdiction may be made by a party serving  
26           the commissioner of insurance with appropriate copies thereof and the payment to  
27           him of the fee authorized by R.S. 22:821.

28           (c) The commissioner of insurance shall, within ten days of being served,  
29           forward a copy of such process by registered or certified mail, return receipt  
30           requested, to the licensee at his last known address of record or principal place of

1 business, and the commissioner shall maintain copies of all such processes so served  
2 upon him.

3 (4) The service of process upon any such licensee in any action or  
4 proceeding instituted by the commissioner of insurance pursuant to this Part shall be  
5 made by the commissioner by mailing such process by registered or certified mail,  
6 return receipt requested, to the licensee at his last known address of record or  
7 principal place of business.

8 C. A nonresident consultant who moves from one state to another state or a  
9 resident consultant who moves from this state to another state shall file a change of  
10 address and provide certification from the new resident state within thirty days of the  
11 change of legal residence. No fee or license application is required.

12 §1808.6. Exemption from examination

13 A. An individual who applies for an insurance consultant license in this state  
14 who was previously licensed as a resident insurance consultant for the same lines of  
15 authority in another state shall not be required to complete any prelicensing  
16 education or examination. This exemption is available only if the person is currently  
17 licensed in that state or if the application is received within ninety days of the  
18 cancellation of the applicant's previous license and if the prior state issues a  
19 certification that, at the time of cancellation, the applicant was in good standing in  
20 that state or by the National Association of Insurance Commissioners, its affiliates  
21 or subsidiaries, and the certification indicates that the consultant is or was licensed  
22 in good standing for the line of authority requested.

23 B. A person licensed as an insurance consultant in another state who moves  
24 to this state shall make application within ninety days of establishing legal residence  
25 in this state to become a resident licensee pursuant to R.S. 22:1808.3. No  
26 prelicensing education or examination shall be required of that person to obtain a  
27 consultant license for any line of authority previously held in the prior state except  
28 where the commissioner of insurance determines otherwise by regulation.

29 C. Resident applicants shall be exempt from the requirement of an  
30 examination for a license covering the same line or lines of insurance for which the

1 applicant was licensed under a similar license in this state within two years from the  
2 date of expiration of the previous license, unless such previous license was revoked  
3 or suspended or renewal was refused by the commissioner.

4 §1808.7. Assumed names

5 A. An insurance consultant doing business under any name other than the  
6 consultant's legal name is required to notify the commissioner of insurance prior to  
7 using the assumed name. Prior to the use of or changes to any trade name or names,  
8 an insurance consultant shall provide written notification of such use or change to  
9 the commissioner, on a form prescribed by the commissioner. A certified copy of  
10 registration from the secretary of state shall accompany the application for a trade  
11 name.

12 B. The use by any insurance consultant of a nonapproved trade name shall  
13 subject such person to a fine not exceeding two hundred fifty dollars. Additionally,  
14 if the insurance consultant continues to utilize a nonapproved trade name for ten or  
15 more days after being notified by the commissioner to cease using the nonapproved  
16 trade name, the insurance consultant will be subject to an additional fine not to  
17 exceed five thousand dollars. If applicable, an insurance consultant shall comply  
18 with the provisions of R.S. 51:281 et seq.

19 §1808.8. License denial, suspension, nonrenewal, or revocation

20 A. The commissioner of insurance may place on probation, suspend, revoke,  
21 or refuse to issue, renew, or reinstate an insurance consultant license, or may levy a  
22 fine not to exceed five hundred dollars for each violation occurring, up to ten  
23 thousand dollars aggregate for all violations in a calendar year per applicant or  
24 licensee, or any combination of these actions, for any one or more of the following  
25 causes:

26 (1) Failing to comply with any prerequisite of state or federal law or  
27 regulations for the issuance of such license.

28 (2) Providing incorrect, misleading, incomplete, or materially false  
29 information, or omission of material information, in the license or renewal  
30 application.

1           (3) Failing to account for or remit any premiums, monies, or properties  
2           belonging to another which come into the possession of the applicant in the course  
3           of doing insurance business, or improperly withholding, misappropriating,  
4           converting, or failing to timely remit any premiums, monies, or properties received  
5           in the course of doing insurance business, whether such premiums, monies, or  
6           properties belong to policyholders, insurers, beneficiaries, claimants, or others.

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

10          (5) Misrepresenting the terms of an actual or proposed insurance contract,  
11          binder, rider, plan, or application for insurance, including all forms or documents  
12          that are attached, or will be attached, to an actual or proposed insurance contract,  
13          binder, rider, plan, or application for insurance.

14          (6) Having admitted or been found to have committed any insurance unfair  
15          trade practice under R.S. 22:1961 et seq. or fraud under R.S. 22:1964 et seq.

16          (7) The conviction or nolo contendere plea to any felony, participation in a  
17          pretrial diversion program pursuant to a felony charge, suspension and deferral of  
18          sentence and probation pursuant to Article 893 of the Code of Criminal Procedure,  
19          or conviction of any misdemeanor involving moral turpitude or public corruption.

20          (8) 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 cheat  
23          on an examination for an insurance license of any kind.

24          (9) The adjudication of bankruptcy with debts related to the receipt or  
25          transmittal of insurance premiums or other funds to an insurer or insured in any  
26          fiduciary capacity of the applicant, or issuance to the Department of Insurance of an  
27          insufficient fund or no-fund check.

28          (10) Forging another's name to an application for insurance or to any  
29          document related to an insurance transaction.



1           (11) Having an insurance consultant license, or its equivalent, denied,  
2           suspended, or revoked in this or any other state, province, district, or territory.

3           (12) Violating of any insurance laws of the United States, this state or any  
4           state, province, district, or territory, or violating any lawful rule, regulation,  
5           subpoena, or order of the commissioner of insurance or of the insurance officials of  
6           another state.

7           (13) Refusing to submit physical evidence of identity or the conviction of a  
8           felony, in accordance with R.S. 22:1922(B) and (C).

9           (14) Failing to comply with an administrative or court order imposing a child  
10          support obligation.

11          (15) Failing to pay state income taxes or comply with any administrative or  
12          court order directing payment of state income taxes.

13          (16) Employing or allowing to associate with his business, in any manner,  
14          any person engaged in the business of insurance who has been convicted of a felony  
15          under the laws of this state or any other state, the United States, or any foreign  
16          country. As used in this Part, "business of insurance" means the writing of insurance  
17          or the reinsuring of risks by an insurance consultant or insurer, including all acts  
18          necessary or incidental to such writing or reinsuring, and the activities of persons  
19          who act as, or are, officers, directors, agents, or employees of consultants or insurers,  
20          or who are other persons authorized to act on behalf of such persons.

21          (17) The conviction of a felony involving dishonesty or breach of trust  
22          pursuant to 18 U.S.C. §1033 and §1034, without written consent from the  
23          commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute  
24          regulating crimes by or affecting persons engaged in the business of insurance whose  
25          activities affect interstate commerce.

26          B. If the commissioner denies any application for a license in accordance and  
27          compliance with R.S. 49:961, the commissioner shall notify the applicant and advise  
28          the applicant in writing of the reasons for the denial. An aggrieved party affected by  
29          the commissioner's decision, act, or order may demand a hearing in accordance with  
30          Chapter 12 of this Title, R.S. 22:2191 et seq.

1           C. In the event the commissioner suspends or revokes a license, or refuses  
2           the renewal or reinstatement of a license, or levies a fine, with or without suspension,  
3           revocation, or refusal to renew a license, the commissioner, in accordance and  
4           compliance with R.S. 49:961, shall notify the licensee in writing of the  
5           determination. Any such suspension or revocation of a license, or refusal to renew  
6           or reinstate a license, shall include all lines of insurance for which the licensee was  
7           authorized. An aggrieved party affected by the commissioner's decision, act, or  
8           order may demand a hearing in accordance with Chapter 12 of this Title, R.S.  
9           22:2191 et seq.

10           D. The license of a business entity may be suspended or revoked, or renewal  
11           or reinstatement thereof may be refused, or a fine may be levied, with or without a  
12           suspension, revocation, or refusal to renew a license, if the commissioner finds, in  
13           accordance and compliance with R.S. 49:961, that an individual licensee's violation  
14           was known or should have been known by one or more of the partners, officers, or  
15           managers acting on behalf of the business entity and the violation was not reported  
16           to the Department of Insurance and no corrective action was undertaken timely. Any  
17           such suspension or revocation of a license, or refusal to renew or reinstate a license,  
18           shall include all lines of insurance for which the licensee was authorized.

19           E.(1) No licensee whose license has been revoked pursuant to this Section  
20           shall be entitled to file another application for a license within one year from the  
21           effective date of such revocation, or, if judicial review of such revocation is sought,  
22           within one year from the date of final court order or decree affirming such  
23           revocation. A subsequent application, when filed, may be refused by the  
24           commissioner of insurance unless the applicant shows good cause why the  
25           revocation of his license should not be deemed a prohibition to the issuance of a new  
26           license.

27           (2) Any license which has been reissued following revocation shall be  
28           revoked for a period not to exceed five years upon a second violation by the licensee  
29           of any of the provisions of this Section. No licensee whose license has been revoked  
30           pursuant to this Paragraph shall be entitled to file another application for a license

1 within the revocation period. A subsequent application, when filed, may be refused  
2 by the commissioner of insurance unless the applicant shows good cause why the  
3 revocation of his license should not be deemed a prohibition to the issuance of a new  
4 license.

5 F. Upon suspension, revocation, or termination of the license of a resident  
6 of this state, the commissioner shall notify the National Association of Insurance  
7 Commissioners and the proper insurance official of each state for whom the  
8 commissioner has executed a certificate as provided for herein.

9 G. If the commissioner revokes or suspends any nonresident's license  
10 through a proceeding pursuant to this Section, he shall promptly notify the  
11 appropriate insurance official of the licensee's place of residency of such action and  
12 of the particulars thereof.

13 H. The commissioner of insurance shall retain the authority to enforce the  
14 provisions of, and impose any penalty or remedy authorized by, this Section against  
15 any person who is under investigation for or charged with a violation of this Section,  
16 even if the person's license has been surrendered or has lapsed by operation of law.

17 §1808.9. Commissions

18 A. No person or business entity licensed and acting as an insurance  
19 consultant under a written agreement pursuant to R.S. 22:1808.11, shall accept any  
20 commission, service fee, brokerage, or other valuable consideration for selling,  
21 soliciting, or negotiating insurance in this state.

22 B.(1) No member of an insurance advisory committee of any state agency,  
23 board, commission, or of any political subdivision of this state, including but not  
24 limited to school boards, levee boards, deep water port commissions, deep water  
25 port, harbor and terminal districts, and the Louisiana Stadium and Exposition  
26 District, shall split, pass on, or share with any insurance consultant or other person  
27 who is not a member of his own firm or corporation and is not a member of such an  
28 insurance advisory committee, all or any portion of the commission derived by such  
29 committee from the purchase of insurance by such state agency, board, commission,  
30 or political subdivision of the state without express authorization by official action

1 of such state agency, board, commission, or political subdivision of the state. Any  
2 insurance consultant or other person who is not a member of such firm or corporation  
3 and is not a member of such an insurance advisory committee who receives without  
4 authorization all or any portion of such commission shall also be in violation of this  
5 Section.

6 (2) Any person who violates the provisions of this Section shall, upon  
7 conviction, be fined not less than one thousand dollars, nor more than five thousand  
8 dollars per violation, or imprisoned for not more than two years, or both.

9 (3) Any conviction for a violation of the provisions of this Section shall  
10 constitute grounds for suspension or revocation by the commissioner of insurance  
11 of the license of such insurance consultant, in addition to those grounds of R.S.  
12 22:1808.8.

13 §1808.10. Reciprocity; non-reciprocal states or other jurisdictions

14 A. The commissioner of insurance shall waive any requirements for a  
15 nonresident license applicant with a valid license from his home state, except the  
16 requirements imposed by R.S. 22:1808.5, if the applicant's home state awards  
17 nonresident licenses to residents of this state on the same basis.

18 B. A nonresident consultant's satisfaction of his home state's continuing  
19 education requirements for licensed insurance consultants shall constitute  
20 satisfaction of this state's continuing education requirements if the nonresident  
21 consultant's home state recognizes the satisfaction of its continuing education  
22 requirements imposed upon consultants from this state on the same basis.

23 C. Whenever, by the laws or regulations of any other state or jurisdiction,  
24 any limitation of rights and privileges, conditions precedent, or any other  
25 requirements are imposed upon residents of this state who are nonresident applicants  
26 or licensees of such other state or jurisdiction in addition to, or in excess of, those  
27 imposed on nonresidents pursuant to this Part, the same such requirements shall be  
28 imposed upon such residents of such other state or jurisdiction. This Part shall not  
29 apply to fees, which shall be as authorized by R.S. 22:821.

1           §1808.11. Disclosure agreement and compensation

2                   A. Prior to providing consulting services, a person licensed as a consultant  
 3                   pursuant to this Part shall disclose all of the following in a written contract signed  
 4                   by the party receiving the consulting services:

5                   (1) The services to be provided by the consultant to the insured and  
 6                   prospective insureds.

7                   (2) The beginning and ending date of the agreement.

8                   (3) Any insurance to which the contract for consulting services applies.

9                   (4) The arrangements for compensation of the consultant, whether by a flat  
 10                   rate, hourly rate, or other valuable consideration.

11                   (5) Whether the consultant is dually licensed as an insurance producer.

12                   (6) Whether the consultant has any financial or business interest in or  
 13                   affiliation with any insurance producer, broker, or insurance company involved  
 14                   within the scope of the consulting work.

15                   B. A copy of every consulting contract shall be retained by the consultant for  
 16                   not less than five years after the expiration of the consulting contract.

17                   C. No licensed insurance consultant may receive any fee for consulting  
 18                   services, unless such compensation is based upon a prior written contract as required  
 19                   by this Section.

20                   D. If a licensed insurance consultant has received the compensation outlined  
 21                   in the written consulting contract, it shall be conclusively presumed that the licensee  
 22                   was acting as a consultant with respect to any transactions related to the contract.

23                   E. A consulting contract shall be made available to the Louisiana  
 24                   Department of Insurance within ten days of a written request.

25           §1808.12. Prohibited acts

26                   A.(1) No person licensed and acting as an insurance consultant under a  
 27                   written agreement pursuant to R.S. 22:1808.11, shall sell, solicit, make an  
 28                   application for, procure, negotiate for, or place for others, any policies for any lines  
 29                   of insurance.

1           (2) No insurer or insurance producer shall pay any money or commission or  
2           brokerage, or give or allow any valuable consideration or compensation to any  
3           person or business entity duly licensed and acting as an insurance consultant under  
4           a written agreement pursuant to R.S. 22:1808.11.

5           (3) A consultant who is also licensed as an insurance producer shall not,  
6           when representing himself as an insurance consultant under a written agreement  
7           pursuant to R.S. 22:1808.11, solicit, sell, or negotiate contracts of insurance or  
8           otherwise act as an insurance producer, and shall not receive directly or indirectly  
9           from an insurance company, broker, or insurance producer any money or  
10          commission or brokerage, or give or allow any valuable consideration or  
11          compensation for the solicitation, negotiation, application, sale or placement of  
12          insurance coverages which were the subject of a written consulting contract as  
13          required by R.S. 22:1808.11 during the term of the written consulting contract.

14          (4) An insurance producer who has a financial or business interest or  
15          affiliation with an insurance consultant acting as a consultant under a written  
16          contract as required by R.S. 22: 1808.11, shall not solicit, negotiate or sell insurance,  
17          either directly or indirectly, with respect to the insurance risks of the insured or  
18          prospective insured which were the subject of the consulting contract during the term  
19          of the written consulting contract.

20          (5) An insurance consultant shall not have a direct or indirect financial  
21          interest in any aspect of their consulting work, other than the consulting fee  
22          compensation established in the written contract with the insured.

23          (6) An insurance consultant shall not solicit employment or engagement,  
24          directly or indirectly, for or on behalf of any insurance producer, attorney at law,  
25          contractor, or other person with which the insurance consultant has a business  
26          relationship or financial interest. Nothing in this Part shall be interpreted to prevent  
27          an insurance consultant from recommending a particular insurance producer,  
28          attorney, contractor, or other person; however, the insurance consultant is prohibited  
29          from collecting any fee, compensation, or other valuable consideration for such  
30          referral.

1                   (7) An insurance consultant shall not engage in the unauthorized practice of  
2 law as defined in R.S. 37:212-213.

3                   B.(1) Whoever violates this Section shall, upon conviction, be fined not less  
4 than two thousand dollars, nor more than fifty thousand dollars, or imprisoned with  
5 or without hard labor, for not more than three years, or both.

6                   (2) Any conviction for violation of this Section shall constitute grounds for  
7 the immediate suspension or revocation by the commissioner of insurance of the  
8 license of such insurance consultant to sell insurance, in addition to those grounds  
9 set forth in R.S. 22:1808.8.

10                  C. Nothing in this Section shall prohibit an insurance producer from  
11 receiving reimbursement of expenses or an agency fee for services provided as the  
12 producer of record as authorized pursuant to R.S. 22:855(B).

13 §1808.13. Reporting of actions

14                  A. An insurance consultant shall report to the commissioner of insurance any  
15 administrative action taken against the consultant in another jurisdiction or by  
16 another governmental agency in this state within thirty days of the final disposition  
17 of the matter. This report shall include a copy of the order, consent to order, or other  
18 relevant legal documents.

19                  B. Within thirty days of a conviction in district court of an offense pursuant  
20 to R.S. 22:1808.8(A)(7), a consultant shall report such conviction to the  
21 commissioner and provide a copy of the bill of information or indictment.

22                  C. Without in any way limiting or affecting any other civil or criminal  
23 remedies or consequences, any person who intentionally withholds or intentionally  
24 fails to timely report information as required by this Part shall be guilty of violating  
25 R.S. 22:1808.8(A)(12).

26 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

27 §4.1. Exceptions

28   \*       \*       \*

29                  B. The legislature further recognizes that there exist exceptions, exemptions,  
30 and limitations to the laws pertaining to public records throughout the revised

1 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
2 limitations are hereby continued in effect by incorporation into this Chapter by  
3 citation:

4 \* \* \*

5 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,  
6 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,  
7 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466,  
8 1488, 1546, 1559, 1566(D), 1644, 1656, 1723, 1796, 1801, 1808.3, 1927, 1929,  
9 1983, 1984, 2036, 2056, 2085, 2091, 2293, 2303

10 \* \* \*

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_