

2017 Regular Session

SENATE BILL NO. 117

BY SENATOR COLOMB

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

LIABILITY INSURANCE. Requires certain insurance producers to maintain professional liability insurance. (8/1/17)

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AN ACT

To amend and reenact R.S. 22:1570(B)(1)(introductory paragraph) and (i) and 1963, and to enact R.S. 22:1570.1 relative to insurance producers; to require certain insurance producers to maintain professional liability insurance for the benefit of insurance customers; to provide for unfair trade practices; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1570(B)(1)(introductory paragraph) and (i) and 1963 are hereby amended and reenacted and R.S. 22:1570.1 is hereby enacted to read as follows:

§1570. Limitation on termination of independent insurance producers

* * *

B.(1) No admitted insurance company which is authorized to do business in this state shall terminate the appointment or the agency contract of a non-captive insurance producer without the mutual agreement of the parties in writing at the time of the termination of the agency agreement or without providing at least one hundred eighty ~~days~~ **days**' advance written notice, except when the termination is for one of the following reasons which shall constitute "cause" for which an insurer may terminate a producer's appointment without providing such notice:

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(i) Failure to maintain the agent's professional liability coverage required in the agency contract **and as required in R.S. 22:1570.1.**

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§1570.1. Requirement for professional liability coverage

A. Every insurance producer who is subject to the provisions of R.S. 23:1570 shall maintain professional liability insurance or an errors and omissions policy which includes coverage for acts or omissions as a non-captive insurance producer and which policy is for the purpose of providing coverage for the benefit of the insured customers of the producer.

B. Every insurance producer who is required to be licenced pursuant to R.S. 22:1543 and who sells insurance products for which the premiums are financed (in whole or in part) by an insurance premium finance company as provided for in R.S. 9:3550 shall maintain professional liability insurance or an errors and omissions policy which includes coverage for acts or omissions as an insurance producer and which policy is for the purpose of providing coverage for the benefit of the insured customers of the producer.

C. Should any insurance producer who is subject to the provisions of this Section fail to maintain professional liability insurance or an errors and omissions policy such failure shall constitute an unfair trade practice as provided for in R.S. 22:1963 and shall subject the insurance producer to the provisions of R.S. 22:1554(A)(6).

* * *

§1963. Unfair methods and unfair or deceptive acts and practices prohibited

No person shall engage in this state in any trade practice which is defined in this Part to be an unfair method of competition or an unfair or deceptive act or practice in the conduct of the business of insurance, including unauthorized insurance as provided in R.S. 22:1902 et seq. **or the failure to maintain professional liability insurance, if such coverage is required pursuant to R.S.**

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22:1570.1.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 117 Original 2017 Regular Session Colomb

Present law provides that no insurance producer (also known as an insurance agent) shall sell any insurance policy in La. unless the insurance producer is licensed by the La. Department of Insurance.

Present law provides that insurance producers, or insurance agents, are to be licensed whether they are captive insurance producers (i.e. agents for only one insurance company) or non-captive insurance producers (i.e. agents whose agency contract with an insurance company establishes the insurance producer as an independent contractor with the ability to represent more than one insurance company).

Present law allows insurance companies to terminate the appointment of non-captive insurance producers (also know as an "independent insurance agent") with certain restrictions. Present law requires the insurance company to provide the insurance producer with 180 days' notice prior to the termination of the appointment, unless the termination is for cause. Present law further provides that the 180 days' notice does not apply to captive producers, surplus lines, non-captive producers writing life and annuity insurance policies, and certain contractual relationships.

Present law allows an insurer to terminate the non-captive insurance producer's appointment without notice under certain conditions for cause, including failure to maintain the agent's professional liability coverage required in the agency contract.

Proposed law retains present law and requires every non-captive insurance producer to maintain professional liability insurance or an errors and omissions policy which includes coverage for acts or omissions as an independent insurance producer and which policy is for the purpose of providing coverage for the benefit of the insured customers of the producer.

Proposed law retains present law but also requires every insurance producer, whether captive or non-captive, who sells insurance products in which the premiums, in whole or in part, are financed by an insurance premium finance company to maintain professional liability insurance or an errors and omissions policy which includes coverage for acts or omissions as an insurance producer and which policy is for the purpose of providing coverage for the benefit of the insured customers of the producer.

Present law provides that no person in this state shall engage in any trade practice which is defined to be an unfair method of competition or an unfair or deceptive act or practice in the conduct of the business of insurance, including the sale of insurance by an unauthorized insurer.

Proposed law provides that should any insurance producer fail to maintain professional liability insurance, if required to do so by proposed law, such failure shall constitute an insurance unfair trade practice as provided for in present law.

Effective August 1, 2017.

(Amends R.S. 22:1570(B)(1)(intro para) and (i) and 1963; adds R.S. 22:1570.1)