

SENATE BILL NO. 373

BY SENATORS CLOUD, ABRAHAM, BERNARD, CATHEY, CORTEZ, FESI, FOIL,
HEWITT, JACKSON, JOHNS, MCMATH, MIZELL, MORRIS,
REESE, SMITH, WHITE AND WOMACK

1 AN ACT

2 To amend and reenact R.S. 22:1964(20) through (28) and to enact R.S. 22:1964(29), relative
3 to unfair or deceptive methods, acts, and practices in the business of insurance for
4 personal lines and commercial lines; to provide with respect to the failure to provide
5 claims history within ten business days of receipt of the insured's written request; to
6 include mail, fax, and email as methods for submitting the request; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1964(20) through (28) are hereby amended and reenacted and R.S.
10 22:1964(29) is hereby enacted to read as follows:

11 §1964. Methods, acts, and practices which are defined as unfair or deceptive

12 The following are declared to be unfair methods of competition and unfair
13 or deceptive acts or practices in the business of insurance:

14 * * *

15 (20)(a) Failure to provide claims history: - **personal lines.**

16 ~~(a)~~(i) Loss information - property and casualty. Failure of a company issuing
17 property and casualty insurance to provide the following loss information for the
18 three previous policy years to the first named insured within thirty days of receipt of
19 the first named insured's written request:

20 ~~(i)~~(aa) On all claims, date, and description of occurrence, and total amount
21 of payments.

22 ~~(ii)~~(bb) For any occurrence not included in ~~Item (i)~~ **Subitem (aa)** of this
23 **Subparagraph Item**, the date and description of occurrence.

24 ~~(b)~~(ii) Should the first named insured be requested by a prospective insurer

1 to provide detailed loss information in addition to that required under ~~Subparagraph~~
 2 ~~(a)~~ **Item (i)** of this ~~Paragraph~~ **Subparagraph**, the first named insured may mail or
 3 deliver a written request to the insurer for the additional information. No prospective
 4 insurer shall request more detailed loss information than reasonably required to
 5 underwrite the same line or class of insurance. The insurer shall provide information
 6 under this Subparagraph to the first named insured as soon as possible, but in no
 7 event later than twenty days of receipt of the written request. Notwithstanding any
 8 other provision of this Section, no insurer shall be required to provide loss reserve
 9 information, and no prospective insurer may refuse to insure an applicant solely
 10 because the prospective insurer is unable to obtain loss reserve information.

11 ~~(e)~~**(iii)** The commissioner may promulgate regulations to exclude the
 12 providing of the loss information as outlined in ~~Subparagraph (a)~~ **Item (i)** of this
 13 ~~Paragraph~~ **Subparagraph** for any line or class of insurance where it can be shown
 14 that the information is not needed for that line or class of insurance or where the
 15 provision of loss information otherwise is required by law.

16 ~~(d)~~**(iv)** Information provided under ~~Subparagraph (b)~~ **Item (ii)** of this
 17 ~~Paragraph~~ **Subparagraph** shall not be subject to discovery by any party other than
 18 the insured, the insurer, and the prospective insurer.

19 **(b) The provisions of this Paragraph shall apply exclusively to personal**
 20 **lines.**

21 **(21)(a) Failure to provide claims history - commercial lines.**

22 **(i) Loss information - property and casualty. Failure of a company**
 23 **issuing property and casualty insurance to provide the following loss**
 24 **information, by mail and, if the request was not submitted by mail, by the same**
 25 **means the request was submitted, for the five previous policy years to the first**
 26 **named insured within ten business days of receipt of the first named insured's**
 27 **written request submitted by mail, fax, or email:**

28 **(aa) On all claims, date, and description of occurrence, and total amount**
 29 **of payments.**

30 **(bb) For any occurrence not included in Subitem (aa) of this Item, the**

1 date and description of occurrence.

2 (ii) If the first named insured is requested by a prospective insurer to
3 provide detailed loss information in addition to that required under Item (i) of
4 this Subparagraph, the first named insured may mail, fax, email, or deliver a
5 written request to the insurer for the additional information. No prospective
6 insurer shall request more detailed loss information than reasonably required
7 to underwrite the same line or class of insurance. The insurer shall provide
8 information pursuant to this Item, by mail and, if the request was not submitted
9 by mail, by the same means the request was submitted, to the first named
10 insured as soon as possible, but in no event later than ten business days of
11 receipt of the written request. Notwithstanding any other provision of this
12 Section, no insurer shall be required to provide loss reserve information, and
13 no prospective insurer may refuse to insure an applicant solely because the
14 prospective insurer is unable to obtain loss reserve information.

15 (iii) The commissioner may promulgate regulations to exclude the
16 providing of the loss information as outlined in Item (i) of this Subparagraph
17 for any line or class of insurance where it can be shown that the information is
18 not needed for that line or class of insurance or where the provision of loss
19 information otherwise is required by law.

20 (iv) Information provided pursuant to Item (ii) of this Subparagraph
21 shall not be subject to discovery by any party other than the insured, the
22 insurer, and the prospective insurer.

23 (b) The provisions of this Paragraph shall apply exclusively to
24 commercial lines.

25 (22) The issuance of any line of health insurance in the state by an insurer,
26 self-insurer, or other entity that provides health and accident insurance policies or
27 plans within five years after the entity has ceased writing insurance or issuing plans
28 in the state.

29 ~~(22)~~(23) The discrimination against an insured, enrollee, or beneficiary in
30 the issuance, payment of benefits, withholding of coverage, cancellation, or

1 nonrenewal of a policy, contract, plan, or program based upon the results of a
2 prenatal test.

3 ~~(23)~~**(24)** The discrimination against an insured, enrollee, or beneficiary in
4 the issuance, payment of benefits, withholding of coverage, cancellation or
5 nonrenewal of a policy, contract, plan, or program based upon the results of a genetic
6 test or receipt of genetic information. Actions of an insurer or third parties dealing
7 with an insurer taken in the ordinary course of business in connection with the sale,
8 issuance or administration of a life, disability income, or long-term care insurance
9 policy are exempt from the provisions of this Paragraph.

10 ~~(24)~~**(25)** Requiring a producer or offering any incentive for a producer who
11 represents more than one company to limit information provided to consumers on
12 limited benefit or supplemental benefit plans, including attempting to enforce a
13 provision of a sales representative agreement, a sales agent agreement, a
14 nonsolicitation agreement, or a noncompetition agreement against such a producer
15 which would result in limiting the information that the producer provides to
16 consumers on limited benefit or supplemental benefit plans. Failure to comply with
17 the provisions of this Paragraph shall subject the insurer to a penalty, of not less than
18 two thousand five hundred dollars nor more than five thousand dollars, payable to
19 the producer and shall not be subject to the penalties provided for in R.S. 22:1969.

20 ~~(25)~~**(26)** Requiring a producer or offering any incentive for a producer who
21 represents more than one insurance company to limit the number of other insurance
22 companies such a producer may represent, including attempting to enforce a
23 provision of a sales representative agreement, a sales agent agreement, a
24 nonsolicitation agreement, or a noncompetition agreement against such a producer
25 which would result in limiting the number of other insurance companies that the
26 producer may represent. Failure to comply with the provisions of this Paragraph shall
27 subject the insurer to a penalty up to ten thousand dollars and shall not be subject to
28 the penalties provided for in R.S. 22:1969.

29 ~~(26)~~**(27)** Failure by an organization that negotiates with a pharmacy or
30 pharmacies, or an organization that represents an independent pharmacy or a group

1 of independent pharmacies, to provide to a pharmacy a contract, agreement, or other
2 documentation relative to the pharmacy's network participation with a third-party
3 payor as required in R.S. 22:1857.1.

4 ~~(27)~~**(28)** Deliberate use of misrepresentations or false statements for the
5 purpose of convincing a customer to replace a limited benefit insurance policy. The
6 commissioner shall promulgate regulations which address the replacement of limited
7 benefit insurance policies as defined in R.S. 22:47(2)(c).

8 ~~(28)~~**(29)** Failure by an admitted insurer upon renewal or issuance of any
9 policy or contract of insurance which includes a provision that the policy or contract
10 contains defense costs within the limit of liability to provide notice of such provision
11 through a separate notice or inclusion on the declaration page of the insurance policy
12 or contract. Failure to comply with the provisions of this Paragraph shall not subject
13 the insurer to the penalties provided in R.S. 22:1969.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____