
DIGEST

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HB 664 Engrossed

2022 Regular Session

Frieman

Abstract: Provides for hearings arising out of matters involving the Louisiana Insurance Code.

Present law provides that whenever the commissioner receives notification of an apparent violation from the division of diversity and opportunity and determines after notice and opportunity for a hearing in accordance with the Administrative Procedure Act, that an insurer has engaged in a pattern or practice of employment discrimination, he may issue an order requiring the insurer to cease and desist engaging in such unlawful act or practice.

Proposed law repeals the provision in present law requiring the commissioner to send notice and give an opportunity for a hearing and provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that before an order for revocation of registration of securities is made final, the insurance company or other insurer applying for registration shall on application be entitled to a hearing, and after such hearing the commissioner shall notify it of the final ruling on the matter.

Proposed law repeals present law and provides that if an order of revocation is entered, the aggrieved party may demand a prompt hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Proposed law provides that if a hearing is not timely requested, the commissioner shall enter a final order revoking the registration of the security, with his findings with respect thereto. However, if upon a hearing, the division of administrative law finds that the revocation of the security was not according to law, the commissioner shall enter an order revoking the order of revocation and such security shall be restored to its status as a registered security as of the date of the order of suspension.

Present law provides that a dealers' or salesmen's registration may be refused or revoked by the commissioner if after a reasonable notice and a hearing the commissioner determines that such applicant or registrant so registered has committed one or more of the prohibited acts enumerated in present law.

Present law provides that an aggrieved party whose registration is refused or revoked may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Proposed law repeals the provision in present law requiring the commissioner to give reasonable

notice and a hearing before refusing or revoking a dealers' or salesmen's registration and retains the provisions in present law providing that an aggrieved party whose registration is refused or revoked may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that the commissioner may, after notice and public hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of producers.

Proposed law replaces the notice and public hearing requirement in present law with a requirement that the commissioner promulgate rules and regulations in accordance with the Administrative Procedure Act.

Present law provides that the commissioner may, after notice and hearing, promulgate rules and regulations, as may be necessary or proper to carry out the provisions of the Health Maintenance Organizations law, subject to the rulemaking and review provisions of the Administrative Procedure Act.

Proposed law repeals the notice and hearing requirements in present law and retains the Administrative Procedure Act provision.

Present law provides that commissioner shall make a certified report of the findings from his examination of self-insurers and a copy shall be furnished to the self-insurers at least 30 days prior to the filing of the report in the office of the commissioner for public inspection.

Present law provides that during the 30 days prior to the filing, a self-insurer may request a hearing to consider objections to the report.

Proposed law repeals present law and provides that the commissioner shall make a certified report of his findings and a copy shall be furnished to the self-insurer pursuant to the provisions of present law (R.S. 22:1983).

Present law provides that the commissioner may refuse, suspend or revoke a certificate of authority of a captive insurer if, after an examination and hearing, the commissioner determines that the captive insurer satisfies any of the provisions enumerated in present law.

Present law provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Proposed law repeals the requirement that the commissioner conduct a hearing prior to refusing, suspending, or revoking a certificate of authority from a captive insurer.

Present law provides that the commissioner shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation may not take effect until after the commissioner's order upon a hearing unless certain enumerated circumstances are present.

Proposed law specifies that the commissioner shall give the reinsurer notice of the suspension or

revocation and opportunity for a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that if an acquisition violates the standards of present law, the commissioner may enter an order that requires an involved insurer to cease and desist from doing business in this state and denies the application of an acquired or acquiring insurer for a license to do business in this state.

Present law provides that such an order shall not be entered unless interested parties have opportunity for a hearing, notice of the hearing is issued prior to the end of the waiting period, and the hearing is concluded and the order is issued no later than 60 days after the date of the filing of the pre-acquisition notification.

Proposed law retains present law and specifies that the hearings held pursuant to present law shall be public hearings.

Present law provides that if at the discretion of the commissioner, it appears that the detailed explanation provided for in present law is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of \$100 for each day's delay, or may suspend or revoke the insurer's authority.

Proposed law repeals the notice and hearing requirement in present law and provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (R.S. 22:691.17).

Present law provides that every director or officer of an insurance holding company system who knowingly violates any provisions of present law shall pay, in their individual capacity, a civil forfeiture of not more than \$1,000 per violation, after notice and opportunity for a hearing.

Present law provides that after notice and opportunity for a hearing, the commissioner may order an insurer, subject to present law, to void any contracts and restore the status quo if the action is in the best interest of the policyholder, creditors, or the public.

Proposed law repeals the notice and hearing requirement in present law and provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (R.S. 22:691.17).

Present law provides that if, after a hearing, the commissioner finds that any activity or practice of a joint underwriting association is unfair, unreasonable, or otherwise inconsistent with the provisions of present law, the commissioner shall issue a written order specifying in what respects such activity or practice is unfair, unreasonable, or otherwise inconsistent and shall require the discontinuance of such activity or practice.

Proposed law repeals the notice and hearing requirement in present law and retains the provision entitling an aggrieved party affected by the commissioner's decision, act, or order may demand a

hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that if a limited licensee violates the provisions of present law, the commissioner may revoke or suspend his limited license, and, after notice and hearing, impose other penalties, including suspending the transaction of insurance at specific rental locations where violations have occurred, as the commissioner deems to be necessary.

Proposed law repeals the notice and hearing requirement in present law and provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that the commissioner may cancel or suspend the certificate of any registered insurance or bail bond producer prelicensing program which does not meet the requirements of present law or rules promulgated by the commissioner.

Present law repeals the notice and hearing requirement in present law and retains the provision entitling an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that if the commissioner finds, after a hearing conducted in accordance with the Administrative Procedure Act, that any person has violated the provisions of present law, the commissioner may take certain disciplinary action.

Present law provides that the decision of the commissioner shall be subject to judicial review pursuant to present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Proposed law repeals the hearing requirement in present law and retains the provision providing that the decision of the commissioner is subject to review pursuant to present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that any person aggrieved by the decision, determination, or order of the commissioner may appeal to the Nineteenth Judicial District Court.

Proposed law repeals the hearing requirement in present law and retains the provision providing that any person aggrieved by the decision, determination, or order of the commissioner may appeal to the Nineteenth Judicial District Court.

Present law provides that if a vendor of portable electronics violates any provision of present law, the commissioner may, after notice and opportunity for a hearing, take certain disciplinary action.

Proposed law repeals the notice and hearing requirement in present law and provides that an aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Present law provides that the commissioner may, after notice and hearing, promulgate such rules and

regulations as may be necessary or proper to carry out the provisions of the medical claims laws. Such rules and regulations shall be promulgated and adopted in accordance with the Administrative Procedure Act.

Proposed law repeals the notice and hearing requirement in present law and retains the provision requiring that such rules and regulations be promulgated and adopted in accordance with the Administrative Procedure Act.

Present law provides that if the commissioner has reasonable cause to believe that a board member failed to disclose a known conflict of interest with his duties on the board, failed to take appropriate action based on a known conflict of interest with his duties on the board, or has been indicted or charged with a felony, or misdemeanor involving moral turpitude, the commissioner may suspend that board member pending the outcome of an investigation or hearing by the commissioner or the conclusion of any criminal proceedings. In the event that the allegations are substantiated at the conclusion of an investigation, hearing or criminal proceeding, the seat shall be declared vacant

Proposed law repeals the hearing option in present law.

Present law provides that if the association fails to submit suitable amendments to its plan of operations, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of the La. Insurance Guaranty Association Law.

Proposed law repeals the notice and hearing requirement in present law and provides that the adoption and promulgation of rules by the commissioner shall be done in accordance with the Administrative Procedure Act.

Present law provides that any person insured pursuant to present law, R.S. 22:2322 through 2334, or his representative, or any affected insurer, who may be aggrieved by an act, ruling, or decision of the governing committee of the plan may, within 30 days after such ruling, appeal to the commissioner.

Present law provides that any hearings held by the commissioner of insurance pursuant to such an appeal shall be in accordance with the procedure set forth in the insurance laws of Louisiana. All persons or insureds aggrieved by any order or decision of the commissioner of insurance may appeal as is provided by the provisions of the insurance laws of the state of Louisiana

Proposed law repeals the provisions of present law that provide that any hearings held by the commissioner relative to an appeal shall be in accordance with the procedure set forth in the insurance laws of Louisiana and provides that such hearings may be demanded by a person aggrieved by any order or decision of the commissioner in accordance with present law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Proposed law makes technical changes.

(Amends R.S. 22:33(A)(intro. para.), 88(F)(7) and (I)(1), 255, 258, 462(G), 550.12(A)(intro. para.), 651(K), 691.5(E)(1)(b), 691.8(B)(2), 691.13(B) and (C), 1472(B), 1550.1(D), 1571(H), 1627(A)(intro. para.) and (B), 1781.5, 1835(A), 2057(E), 2059(A)(2), 2089(A)(2), and 2331; Adds R.S. 22:691.13(G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Change the process whereby certain persons aggrieved by the commissioner's decisions can seek appeal from the process pursuant to R.S. 22:2191 et seq. to the process in 22:691.17.
2. Restore R.S. 22:1731(A)(introductory paragraph) to its posture in present law.
3. Make technical changes.