

2022 Regular Session

HOUSE BILL NO. 664

BY REPRESENTATIVE FRIEMAN

INSURANCE DEPARTMENT: Provides for hearings arising out of matters involving the Louisiana Insurance Code

1 AN ACT

2 To amend and reenact R.S. 22:33(A)(introductory paragraph), 88(F)(7) and
3 (I)(1)(introductory paragraph), 255, 258, 462(G), 550.12(A)(introductory paragraph),
4 651(K), 691.5(E)(1)(b), 691.8(B)(2), 691.13(B) and (C), 1472(B), 1550.1(D),
5 1571(H), 1627(A)(introductory paragraph) and (B), 1781.5, 1835(A), 2057(E),
6 2059(A)(2), 2089(A)(2), and 2331 and to enact R.S. 22:691.13(G), relative to
7 hearings arising out of the Louisiana Insurance Code; to provide for an opportunity
8 for a public hearing for certain acquisitions; to remove the requirement for a hearing
9 by the commissioner prior to taking certain actions; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:33(A)(introductory paragraph), 88(F)(7) and (I)(1)(introductory
13 paragraph), 255, 258, 462(G), 550.12(A)(introductory paragraph), 651(K), 691.5(E)(1)(b),
14 691.8(B)(2), 691.13(B) and (C), 1472(B), 1550.1(D), 1571(H), 1627(A)(introductory
15 paragraph) and (B), 1781.5, 1835(A), 2057(E), 2059(A)(2), 2089(A)(2), and 2331 are hereby
16 amended and reenacted and R.S. 22:691.13(G) is hereby enacted to read as follows:

17 §33. Sanctions

18 A. Whenever the commissioner ~~of insurance~~ receives notification of an
19 apparent violation from the division of diversity and opportunity; and he determines;
20 ~~after notice and opportunity for a hearing in accordance with the Administrative~~

1 ~~Procedure Act~~, that an insurer has engaged in a pattern or practice of employment
2 discrimination prohibited by Part IV of Chapter 3-A of Title 23, R.S. 23:331 et seq.,
3 he may issue an order requiring the insurer to cease and desist engaging in such
4 unlawful act or practice. If the insurer does not comply with the cease and desist
5 order, the commissioner may then:

6 * * *

7 §88. Sales of stock

8 * * *

9 F.

10 * * *

11 (7) ~~Before an order is made final, the insurance company or other issuer~~
12 ~~applying for registration shall on application be entitled to a hearing, and after such~~
13 ~~hearing the commissioner shall notify it of the final ruling on the matter. If an order~~
14 ~~of revocation is entered, the aggrieved party may demand a prompt hearing in~~
15 ~~accordance with Chapter 12 of this Title, R.S. 22:2191 et seq. If a hearing is not~~
16 ~~timely requested, the commissioner shall enter a final order revoking the registration~~
17 ~~of the security, with his findings with respect thereto. However, if upon a hearing,~~
18 ~~the division of administrative law finds that the revocation of the security was not~~
19 ~~according to law, the commissioner shall enter an order revoking the order of~~
20 ~~revocation and such security shall be restored to its status as a security registered~~
21 ~~under this Section as of the date of the order of suspension.~~

22 * * *

23 I.

24 * * *

25 (1) Registration ~~under~~ pursuant to Subsection H of this Section may be
26 refused or any registration granted may be revoked by the commissioner if ~~after a~~
27 ~~reasonable notice and a hearing~~ the commissioner determines that such applicant or
28 registrant so registered has committed any of the following acts:

29 * * *

1 §255. Regulation of producers

2 The commissioner may, ~~after notice and public hearing,~~ in accordance with
3 the Administrative Procedure Act, promulgate such reasonable rules and regulations
4 as are necessary to provide for the licensing of producers. A ~~producer~~ "producer"
5 means a person licensed as a life and health insurance producer in the state of
6 Louisiana who is appointed or employed by a health maintenance organization to
7 engage in solicitation of membership in such organization. It shall not include a
8 person enrolling members on behalf of an employer, union, or other organization to
9 whom a master group contract has been issued.

10 * * *

11 §258. Regulations

12 The commissioner may, ~~after notice and hearing,~~ promulgate such rules and
13 regulations, as may be necessary or proper to carry out the provisions of this Subpart.
14 Such rules and regulations shall be subject to rulemaking and review in accordance
15 with the Administrative Procedure Act.

16 * * *

17 §462. Examination by commissioner

18 * * *
19 G. The commissioner shall make a certified report of his findings and a copy
20 shall be furnished to the self-insurer ~~at least thirty days prior to the filing of the~~
21 ~~report in the office of the commissioner for public inspection. During this thirty-day~~
22 ~~period, the self-insurer may request in writing that a hearing be held to consider~~
23 ~~objections to the report. The report shall not be made public until after the hearing~~
24 ~~is held and any modifications that the commissioner deems necessary are made.~~
25 pursuant to the provisions in R.S. 22:1983.

26 * * *

1 §550.12. Suspension or revocation of certificate of authority; hearings

2 A. The commissioner may refuse, suspend, or revoke the certificate of
3 authority of a captive insurer if, after an examination ~~and hearing~~, the commissioner
4 determines that the captive insurer satisfies any one of the following items:

5 * * *

6 §651. Reinsurance credits

7 * * *

8 K.(1) If an accredited or certified reinsurer ceases to meet the requirements
9 for accreditation or certification, the commissioner may suspend or revoke the
10 reinsurer's accreditation or certification.

11 ~~(1)~~ (2) The commissioner shall give the reinsurer notice of the suspension
12 or revocation and opportunity for a hearing in accordance with Chapter 12 of this
13 Title, R.S. 22:2191 et seq. The suspension or revocation may not take effect until
14 after the commissioner's order ~~upon~~ and a hearing unless one of the following
15 circumstances are present:

16 (a) The reinsurer waives its right to a hearing.

17 (b) The commissioner's order is based upon regulatory action by the
18 reinsurer's domiciliary jurisdiction or upon the voluntary surrender or termination of
19 the reinsurer's eligibility to transact insurance or reinsurance business in its
20 domiciliary jurisdiction or in the primary certifying state of the reinsurer under
21 Paragraph (E)(6) of this Section.

22 (c) The commissioner finds that an emergency requires immediate action and
23 a court of competent jurisdiction has not stayed the commissioner's action.

24 ~~(2)~~ (3) While a reinsurer's accreditation or certification is suspended, no
25 reinsurance contract issued or renewed after the effective date of the suspension
26 qualifies for credit except to the extent that the reinsurer's obligations under the
27 contract are secured in accordance with R.S. 22:652. If a reinsurer's accreditation
28 or certification is revoked, no credit for reinsurance may be granted after the
29 effective date of the revocation, except to the extent that the reinsurer's obligations

1 under the contract are secured in accordance with the provisions of Paragraph (E)(5)
2 of this Section or in accordance with R.S. 22:652.

3 * * *

4 §691.5. Acquisitions involving insurers not otherwise covered

5 * * *

6 E.

7 * * *

8 (1)

9 * * *

10 (b) Such an order shall not be entered unless each of the following
11 requirements have been satisfied:

12 (i) Interested parties have opportunity for a public hearing.

13 (ii) Notice of the public hearing is issued prior to the end of the waiting
14 period and not less than fifteen days prior to the hearing.

15 (iii) The public hearing is concluded and the order is issued no later than
16 sixty days after the date of the filing of the pre-acquisition notification with the
17 commissioner.

18 * * *

19 §691.8. Examination

20 * * *

21 B.

22 * * *

23 (2) To determine compliance with this Subpart, the commissioner may order
24 any insurer registered under R.S. 22:691.6 to produce information not in the
25 possession of the insurer if the insurer can obtain access to such information pursuant
26 to contractual relationships, statutory obligations, or other method. In the event the
27 insurer cannot obtain the information requested by the commissioner, the insurer
28 shall provide the commissioner a detailed explanation of the reason that the insurer
29 cannot obtain the information and the identity of the holder of information. If at the

1 discretion of the commissioner, it appears that the detailed explanation is without
2 merit, the commissioner may require, ~~after notice and hearing,~~ the insurer to pay a
3 penalty of one hundred dollars for each day's delay, or may suspend or revoke the
4 insurer's authority. An aggrieved party affected by the commissioner's decision, act,
5 or order may seek judicial review of the decision pursuant to R.S. 22:691.17.

6 * * *

7 §691.13. Sanctions

8 * * *

9 B. Every director or officer of an insurance holding company system who
10 knowingly violates, participates in, or assents to, or who knowingly shall permit any
11 of the officers or agents of the insurer to engage in transactions or make investments
12 which have not been properly reported or submitted pursuant to or which violate this
13 Subpart shall pay, in their individual capacity, a civil forfeiture of not more than one
14 thousand dollars per violation, ~~after notice and opportunity for a hearing.~~ In
15 determining the amount of the civil forfeiture, the commissioner shall take into
16 account the appropriateness of the forfeiture with respect to the seriousness of the
17 violation, the history of previous violations, and such other matters as justice may
18 require.

19 C. Whenever it appears to the commissioner that any insurer subject to this
20 Subpart or any director, officer, employee, or agent thereof has engaged in any
21 transaction or entered into a contract which is subject to the provisions of R.S.
22 22:691.7 and which would not have been approved had the approval been requested,
23 the commissioner may order the insurer to cease and desist immediately any further
24 activity under that transaction or contract. ~~After notice and opportunity for hearing,~~
25 the The commissioner may also order the insurer to void any contracts and restore
26 the status quo if the action is in the best interest of the policyholders, creditors, or the
27 public.

28 * * *

1 §1571. Registered insurance producer and bail bond producer prelicensing program

2 * * *

3 H. In accordance and compliance with R.S. 49:961, the commissioner may
4 cancel or suspend the certification of any registered insurance or bail bond producer
5 prelicensing program which does not meet the requirements of this Subpart or of any
6 of the rules or regulations promulgated pursuant to this Subpart. ~~Such cancellation~~
7 ~~or suspension shall be made after notice and an opportunity for hearing.~~ An
8 aggrieved party affected by the commissioner's decision, act, or order may demand
9 a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

10 * * *

11 §1627. Penalties; suspension, revocation, fines, and liabilities

12 A. If the commissioner finds ~~after a hearing conducted in accordance with~~
13 ~~the Administrative Procedure Act, R.S. 49:950 et seq.~~, that any person has violated
14 any provision of this Part, the commissioner may order:

15 * * *

16 B. The decision, determination, or order of the commissioner pursuant to
17 Subsection A of this Section shall be subject to ~~judicial~~ review pursuant to Chapter
18 12 of this Title, R.S. 22:2191 et seq.

19 * * *

20 §1781.5. Suspension or revocation of license

21 A. If a vendor of portable electronics or its employee or authorized
22 representative violates any provision of this Part or any other applicable provision
23 of this Title, the commissioner may, ~~after notice and opportunity for a hearing,~~ take
24 any one or more of the following actions:

25 (1) Impose fines not to exceed five hundred dollars per violation or five
26 thousand dollars in the aggregate for such conduct.

27 (2) Suspend or revoke the limited lines license of the vendor.

28 (3) Suspend the privilege of transacting portable electronics insurance at
29 specific business locations where violations have occurred.

1 (4) Suspend or revoke the ability of individual employees or authorized
2 representatives to act under the license of the vendor.

3 B. An aggrieved party affected by the commissioner's decision, act, or order
4 may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et
5 seq.

6 * * *

7 §1835. Regulations; applicability

8 A. The commissioner may, ~~after notice and hearing,~~ promulgate such rules
9 and regulations as may be necessary or proper to carry out the provisions of this
10 Subpart. Such rules and regulations shall be promulgated and adopted in accordance
11 with the Administrative Procedure Act.

12 * * *

13 §2057. Board of directors

14 * * *

15 E. If the commissioner has reasonable cause to believe that a board member
16 failed to disclose a known conflict of interest with his duties on the board, failed to
17 take appropriate action based on a known conflict of interest with his duties on the
18 board, or has been indicted or charged with a felony, or misdemeanor involving
19 moral turpitude, the commissioner may suspend that board member pending the
20 outcome of an investigation ~~or hearing~~ by the commissioner or the conclusion of any
21 criminal proceedings. ~~In the event that~~ If the allegations are substantiated at the
22 conclusion of an investigation, ~~hearing~~ or criminal proceeding, the seat shall be
23 declared vacant.

24 * * *

25 §2059. Plan of operation

26 A.

27 * * *

28 (2) If the association fails to submit suitable amendments to the plan, the
29 commissioner shall, ~~after notice and hearing~~ in accordance with the Administrative

1 ~~is provided by the provisions of the insurance laws of the state of Louisiana~~ may
2 demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 664 Reengrossed

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 preclicensing 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)(intro. para.), 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.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.