

ACT No. 185

2022 Regular Session

HOUSE BILL NO. 664

BY REPRESENTATIVE FRIEMAN

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

26 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 person enrolling members on behalf of an employer, union, or other organization to
2 whom a master group contract has been issued.

3 * * *

4 §258. Regulations

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

9 * * *

10 §462. Examination by commissioner

11 * * *

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

19 * * *

20 §550.12. Suspension or revocation of certificate of authority; hearings

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

24 * * *

25 §651. Reinsurance credits

26 * * *

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

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

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

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

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

14 ~~(2)~~ (3) While a reinsurer's accreditation or certification is suspended, no
 15 reinsurance contract issued or renewed after the effective date of the suspension
 16 qualifies for credit except to the extent that the reinsurer's obligations under the
 17 contract are secured in accordance with R.S. 22:652. If a reinsurer's accreditation
 18 or certification is revoked, no credit for reinsurance may be granted after the
 19 effective date of the revocation, except to the extent that the reinsurer's obligations
 20 under the contract are secured in accordance with the provisions of Paragraph (E)(5)
 21 of this Section or in accordance with R.S. 22:652.

22 * * *

23 §691.5. Acquisitions involving insurers not otherwise covered

24 * * *

25 E.

26 * * *

27 (1)

28 * * *

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

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

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

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

7 * * *

8 §691.8. Examination

9 * * *

10 B.

11 * * *

12 (2) To determine compliance with this Subpart, the commissioner may order
13 any insurer registered under R.S. 22:691.6 to produce information not in the
14 possession of the insurer if the insurer can obtain access to such information pursuant
15 to contractual relationships, statutory obligations, or other method. In the event the
16 insurer cannot obtain the information requested by the commissioner, the insurer
17 shall provide the commissioner a detailed explanation of the reason that the insurer
18 cannot obtain the information and the identity of the holder of information. If at the
19 discretion of the commissioner, it appears that the detailed explanation is without
20 merit, the commissioner may require, ~~after notice and hearing,~~ the insurer to pay a
21 penalty of one hundred dollars for each day's delay, or may suspend or revoke the
22 insurer's authority. An aggrieved party affected by the commissioner's decision, act,
23 or order may seek judicial review of the decision pursuant to R.S. 22:691.17.

24 * * *

25 §691.13. Sanctions

26 * * *

27 B. Every director or officer of an insurance holding company system who
28 knowingly violates, participates in, or assents to, or who knowingly shall permit any
29 of the officers or agents of the insurer to engage in transactions or make investments
30 which have not been properly reported or submitted pursuant to or which violate this

1 Subpart shall pay, in their individual capacity, a civil forfeiture of not more than one
 2 thousand dollars per violation, ~~after notice and opportunity for a hearing.~~ In
 3 determining the amount of the civil forfeiture, the commissioner shall take into
 4 account the appropriateness of the forfeiture with respect to the seriousness of the
 5 violation, the history of previous violations, and such other matters as justice may
 6 require.

7 C. Whenever it appears to the commissioner that any insurer subject to this
 8 Subpart or any director, officer, employee, or agent thereof has engaged in any
 9 transaction or entered into a contract which is subject to the provisions of R.S.
 10 22:691.7 and which would not have been approved had the approval been requested,
 11 the commissioner may order the insurer to cease and desist immediately any further
 12 activity under that transaction or contract. ~~After notice and opportunity for hearing,~~
 13 the The commissioner may also order the insurer to void any contracts and restore
 14 the status quo if the action is in the best interest of the policyholders, creditors, or the
 15 public.

16 * * *

17 G. An aggrieved party affected by the commissioner's decision, act, or order
 18 may seek judicial review of the decision pursuant to R.S. 22:691.17.

19 * * *

20 §1472. Joint underwriting or joint reinsurance

21 * * *

22 B. If, ~~after a hearing,~~ the commissioner ~~of insurance~~ finds that any activity
 23 or practice of any such group, association, or other organization is unfair,
 24 unreasonable, or otherwise inconsistent with the provisions of this Subpart, the
 25 commissioner shall issue a written order specifying in what respects such activity or
 26 practice is unfair, unreasonable, or otherwise inconsistent with the provisions of this
 27 Subpart, and shall require the discontinuance of such activity or practice.

28 * * *

1 §1550.1. Speciality limited lines self-service storage property insurance producer
2 licenses

3 * * *

4 D.(1) ~~In the event that~~ If any provision of this Section is violated by a limited
5 licensee, the commissioner ~~of insurance~~ may do any of the following:

6 ~~(1)~~ (a) Revoke or suspend a limited license issued pursuant to this Section
7 in accordance with the provisions of R.S. 22:1554.

8 ~~(2)~~ (b) ~~After notice and hearing, impose~~ Impose such other penalties,
9 including suspending the transaction of insurance at specific rental locations where
10 violations of this Section have occurred, as the commissioner deems to be necessary
11 or convenient to carry out the purposes of this Section.

12 (2) An aggrieved party affected by the commissioner's decision, act, or order
13 may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et
14 seq.

15 * * *

16 §1571. Registered insurance producer and bail bond producer prelicensing program

17 * * *

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

25 * * *

26 §1627. Penalties; suspension, revocation, fines, and liabilities

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

30 * * *

1 take appropriate action based on a known conflict of interest with his duties on the
 2 board, or has been indicted or charged with a felony, or misdemeanor involving
 3 moral turpitude, the commissioner may suspend that board member pending the
 4 outcome of an investigation ~~or hearing~~ by the commissioner or the conclusion of any
 5 criminal proceedings. ~~In the event that~~ If the allegations are substantiated at the
 6 conclusion of an investigation, ~~hearing~~ or criminal proceeding, the seat shall be
 7 declared vacant.

* * *

9 §2059. Plan of operation

10 A.

11 * * *

12 (2) If the association fails to submit suitable amendments to the plan, the
 13 commissioner shall, ~~after notice and hearing~~ in accordance with the Administrative
 14 Procedure Act, adopt and promulgate such reasonable rules as are necessary or
 15 advisable to effectuate the provisions of this Part. Such rules shall continue in force
 16 until modified by the commissioner or superseded by a plan submitted by the
 17 association and approved by the commissioner. All rules and regulations
 18 promulgated by the commissioner under the provisions of this Paragraph shall have
 19 no effect until they are reviewed and approved by the Senate Committee on
 20 Insurance and the House Committee on Insurance. If a hearing is not held by such
 21 committees within thirty days after receipt of the rules and regulations promulgated
 22 by the commissioner under the provisions of this Paragraph, then the rules and
 23 regulations may be implemented as promulgated by the commissioner.

24 * * *

25 §2089. Plan of operation

26 A.

27 * * *

28 (2) If at any time the association fails to submit suitable amendments to the
 29 plan, the commissioner shall, ~~after notice and hearing~~ in accordance with the
 30 Administrative Procedure Act, adopt and promulgate such reasonable rules as are

