

2022 Regular Session

ACT NO. 185

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

26

* * *

1 §88. Sales of stock

2 * * *

3 F.

4 * * *

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

16 * * *

17 I.

18 * * *

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

23 * * *

24 §255. Regulation of producers

25 The commissioner may, ~~after notice and public hearing, in accordance with~~
26 the Administrative Procedure Act, promulgate such reasonable rules and regulations
27 as are necessary to provide for the licensing of producers. A producer "producer"
28 means a person licensed as a life and health insurance producer in the state of
29 Louisiana who is appointed or employed by a health maintenance organization to
30 engage in solicitation of membership in such organization. It shall not include a

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

* * *

§258. Regulations

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

* * *

§462. Examination by commissioner

* * *

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

* * *

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

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

* * *

§651. Reinsurance credits

* * *

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

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

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

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

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

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

* * *

§691.5. Acquisitions involving insurers not otherwise covered

* * *

E₆

* * *

(1)

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

- (i) Interested parties have opportunity for a public hearing.
 - (ii) Notice of the public hearing is issued prior to the end of the waiting period and not less than fifteen days prior to the hearing.
 - (iii) The public hearing is concluded and the order is issued no later than sixty days after the date of the filing of the pre-acquisition notification with the commissioner.

* * *

§691.8. Examination

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B.

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

* * *

§691.13. Sanctions

* * *

- B. Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments 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 B. The decision, determination, or order of the commissioner pursuant to
2 Subsection A of this Section shall be subject to ~~judicial~~ review pursuant to Chapter
3 12 of this Title, R.S. 22:2191 et seq.

4 * * *

5 §1781.5. Suspension or revocation of license

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

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

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

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

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

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

20 * * *

21 §1835. Regulations; applicability

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

26 * * *

27 §2057. Board of directors

28 * * *

29 E. If the commissioner has reasonable cause to believe that a board member
30 failed to disclose a known conflict of interest with his duties on the board, failed to

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.

8 * * *

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

1 necessary or advisable to effectuate the provisions of this Part. The rules shall
2 continue in force until modified by the commissioner or ~~superceded~~ superseded by
3 a plan submitted by the association and approved by the commissioner.

4 * * *

5 §2331. Appeal to the commissioner; appeal to the court from the commissioner
6 Any person insured pursuant to R.S. 22:2322 through 2334 or his
7 representative, or any affected insurer, who may be aggrieved by an act, ruling, or
8 decision of the governing committee of the plan may, within thirty days after such
9 ruling, appeal to the commissioner ~~of insurance~~. Any hearings held by the
10 commissioner of insurance pursuant to such an appeal shall be in accordance with
11 the procedure set forth in the insurance laws of Louisiana. All persons or insureds
12 aggrieved by any order or decision of the commissioner ~~of insurance~~ may appeal as
13 is provided by the provisions of the insurance laws of the state of Louisiana may
14 demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____