

RÉSUMÉ DIGEST

ACT 185 (HB 664)

2022 Regular Session

Frieman

Prior law provided that whenever the commissioner of insurance (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.

New law repeals the provision in prior law that required 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 existing law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Prior law provided 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.

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

New 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.

New law provides that 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.

Prior law provided that a dealer's or salesman's registration may be refused or revoked by the commissioner if after 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 existing law.

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

New law repeals the provision in prior law that required the commissioner to give reasonable notice and a hearing before refusing or revoking a dealer's or salesman's registration and retains the provisions in existing law providing that an aggrieved party whose registration is refused or revoked may demand a hearing in accordance with existing law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

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

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

Prior law authorized the commissioner to, 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.

New law repeals the notice and hearing requirements in prior law and retains the Administrative Procedure Act provision.

Prior law required the commissioner to make a certified report of the findings from his examination of self-insurers and furnish a copy to the self-insurer at least 30 days prior to the filing of the report in the office of the commissioner for public inspection.

Prior law authorized a self-insurer to request a hearing to consider objections to the report during the 30 days prior to the report filing.

New law repeals prior law and requires the commissioner to make a certified report of his findings and furnish a copy to the self-insurer pursuant to the provisions of existing law (R.S. 22:1983).

Prior law authorized the commissioner to 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 conditions enumerated in existing law.

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

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

Prior law required the commissioner to give a reinsurer notice and opportunity for a hearing.

Existing law provides that the suspension or revocation may not take effect until after the commissioner's order and a hearing unless certain enumerated circumstances are present.

New law specifies that the commissioner shall give the reinsurer notice of the suspension or revocation and opportunity for a hearing in accordance with existing law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Existing law provides that if an acquisition violates the standards of existing law, the commissioner may enter an order that requires an involved insurer to cease and desist from doing business in this state.

Existing law provides that such an order shall not be entered unless interested parties have an 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.

New law specifies that the hearings shall be public hearings.

Prior law provided that if, at the discretion of the commissioner, it appears that an insurer's detailed explanation provided for in existing 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.

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

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

Existing law authorizes the commissioner, after notice and opportunity for a hearing, to order an insurer to void any contracts and restore the status quo if the action is in the best interest of the policyholders, creditors, or the public.

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

Prior law provided 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 existing 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.

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

Prior law provided that if a limited licensee violates the provisions of existing 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.

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

Prior law authorized the commissioner to cancel or suspend the certificate of any registered insurance or bail bond producer prelicensing program which does not meet the requirements of existing law or rules promulgated by the commissioner.

New law repeals the notice and hearing requirements in prior law and retains the provision authorizing an aggrieved party affected by the commissioner's decision, act, or order to demand a hearing in accordance with existing law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

Prior law provided that if the commissioner finds, after a hearing conducted in accordance with the Administrative Procedure Act, that any person has violated the provisions of existing law, the commissioner is authorized to take certain disciplinary action.

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

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

Prior law provided that any person aggrieved by the decision, determination, or order of the commissioner may appeal to the 19th Judicial District Court.

New law repeals the hearing requirement in prior law and retains the provision providing that any person aggrieved by the decision, determination, or order of the commissioner may appeal to the 19th Judicial District Court.

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

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

Prior law provided that the commissioner may, after notice and a hearing, promulgate in accordance with the Administrative Procedure Act such rules and regulations as may be necessary or proper to carry out the provisions of existing law (R.S. 22:1831 et seq.).

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

Prior law provided 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.

Existing law provides that in the event that the allegations are substantiated at the conclusion of an investigation, hearing or criminal proceeding, the seat shall be declared vacant

New law repeals the hearing option in existing law.

Prior law provided 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.

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

Existing law provides that any person insured pursuant to existing law (R.S. 22:2322-2334), 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.

Prior law provided that any hearings held by the commissioner pursuant to such an appeal shall be in accordance with the procedure set forth in the insurance laws of Louisiana.

Prior law provided that persons or insureds aggrieved by any order or decision of the commissioner may appeal as is provided by the provisions of the insurance laws of the state of Louisiana

New law repeals prior law and provides that any person or insured aggrieved by any order of the commissioner may demand a hearing in accordance with existing law (Chapter 12 of Title 22, R.S. 22:2191 et seq.).

New law makes technical changes.

Effective August 1, 2022.

(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))