

2024 Regular Session

HOUSE BILL NO. 672

BY REPRESENTATIVE JORDAN

INSURERS/AGENTS: Provides relative to managing general agents

1 AN ACT

2 To amend and reenact R.S. 22:1623, 1625(A), and 1626 and to enact R.S. 22:1628 and 1629,  
3 relative to managing general agents; to provide for duties; to provide relative to  
4 financial examinations; to provide for account reports; to require notices to the  
5 Department of Insurance and insurers; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1623, 1625(A), and 1626 are hereby amended and reenacted and  
8 R.S. 22:1628 and 1629 are hereby enacted to read as follows:

9 §1623. Licensure; registration

10 A. ~~No~~ A person shall not act in the capacity of an MGA with respect to risks  
11 located in this state for an insurer licensed in this state unless such person is a  
12 licensed producer in this state.

13 B. ~~No~~ A person shall not act in the capacity of an MGA representing an  
14 insurer domiciled in this state with respect to risks located outside this state unless  
15 such person is licensed as a resident or nonresident producer in this state pursuant  
16 to the provisions of this Part.

17 C. The commissioner may require a bond in an amount of ten percent of the  
18 MGA annual writings or two hundred fifty thousand dollars, whichever is less, for  
19 the protection of the insurer.

20 D. ~~No~~ A person shall not act in the capacity of an MGA in this state unless  
21 such person has registered his name, current residential address, current mailing

1 address, and current business address with the commissioner, on forms prescribed  
2 by the commissioner, together with a fee in the amount set forth in R.S. 22:821.

3 E.(1) A person shall not act in the capacity of an MGA in this state if the  
4 person served as an officer, director, or person with direct or indirect control over the  
5 selection or appointment of an officer or director through contract, trust, or by  
6 operation of law of an insurer doing business in this state and served in that capacity  
7 within the two-year period before the date the insurer became insolvent, unless the  
8 person demonstrates that his personal actions and omissions were not a significant  
9 contributing cause to the insolvency, as determined by the commissioner.

10 (2) Notwithstanding Paragraph (1) of this Subsection, the commissioner may  
11 approve a former officer, director, or person with direct or indirect control over the  
12 selection or appointment of an officer or director of an insurer who became  
13 insolvent, if at least five years have passed since the date the insurer became  
14 insolvent.

15 E. F. Each year prior to May first, every MGA shall notify the commissioner  
16 of his desire to continue his registration as an MGA on forms prescribed by the  
17 commissioner together with a fee in the amount set forth in R.S. 22:821.

18 F. G. If a person fails to provide any of the information required pursuant to  
19 this Section, the commissioner may, after notification by the commissioner to the  
20 person by certified mail of such failure, impose a fine not to exceed fifty dollars.

21 ~~G. H.~~ The commissioner may require the MGA to maintain an errors and  
22 omissions insurance policy.

23 \* \* \*

24 §1625. Duties of insurers

25 A. If an insurer has an MGA who writes more than five percent of its  
26 policyholder surplus, ~~then~~ the insurer shall provide to the commissioner, upon his  
27 request, financial data by an independent examiner concerning that insurer's book of  
28 business which is in question and is handled by that MGA ~~upon request,~~ and the  
29 insurer shall have on file an independent ~~financial examination, in a form acceptable~~

1 ~~to the commissioner,~~ audited financial report of each MGA with which it has done  
 2 business. The audited financial report shall include the opinion of an independent  
 3 certified public accountant, report the financial position of the MGA as of the most  
 4 recent year-end and the results of its operations and cash flows, and include  
 5 appropriate notes to financial statements. The insurer shall submit the report to the  
 6 commissioner upon his request.

7 \* \* \*

8 §1626. Examination authority; account reports; financial examinations; required  
 9 notices to department

10 A. The acts of the MGA are considered to be the acts of the insurer on whose  
 11 behalf it is acting. An MGA may be examined as if it were the insurer.

12 B. As the commissioner considers necessary, an MGA shall submit to an  
 13 examination by the commissioner of the MGA's financial condition.

14 C. The MGA shall pay the examination expenses in an amount the  
 15 commissioner certifies as just and reasonable.

16 \* \* \*

17 §1628. Duties of managing general agents

18 A. At least once each calendar quarter, an MGA shall submit an account  
 19 report to each insurer with whom the MGA has a contract, and include in the report,  
 20 as applicable, a statement of all of the following:

21 (1) Written, earned, and unearned premiums.

22 (2) Losses and loss expenses paid and outstanding.

23 (3) Losses incurred but not reported.

24 (4) Management fees.

25 (5) An outline of expenses, on a form prescribed by the commissioner,  
 26 incurred by the MGA in the performance of duties under its contract with the insurer.

27 B. An MGA shall notify the department within thirty days of the date any of  
 28 the following occurs:

1           (1) Balances due to an insurer for more than ninety days exceed either of the  
2           following:

3           (a) One million dollars.

4           (b) Ten percent of the insurer's policyholder surplus, as reported in the  
5           annual statement filed with the department.

6           (2) Balances due for more than sixty days from a property and casualty  
7           agent or MGA appointed by or reporting to the MGA exceed five hundred thousand  
8           dollars.

9           (3) Authority to settle claims for an insurer is withdrawn.

10          (4) Money held for an insurer for losses is greater than an amount that is one  
11          hundred thousand dollars more than the amount necessary to pay the losses and loss  
12          adjustment expenses expected to be paid on the insurer's behalf within the next sixty-  
13          day period.

14          (5) The contract required pursuant to R.S. 22:1624 is cancelled or  
15          terminated.

16          C. Notwithstanding the notification period imposed by Subsection B of this  
17          Section, an MGA's requirement to notify as prescribed in Paragraphs (B)(1), (2), and  
18          (4) of this Section may be met with a single annual report, if the MGA routinely  
19          operates above the limits established by those Paragraphs and the department verifies  
20          that fact in conformity with rules adopted by the commissioner.

21          §1629. Rules and regulations

22          The commissioner may promulgate and adopt rules and regulations, in  
23          accordance with the Administrative Procedure Act, that are necessary to effectuate  
24          the provisions of this Part.

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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)]

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HB 672 Reengrossed

2024 Regular Session

Jordan

**Abstract:** Provides regulations for financial examinations of managing general agents and outlines duties for such agents and insurers.

Present law provides that acts of a managing general agent (MGA) are considered to be the acts of the insurer on whose behalf the MGA performs, and further provides for financial examination of an MGA as if it were the insurer.

Proposed law retains present law.

Proposed law prohibits a person from acting as an MGA if the person served in a capacity with direct or indirect control over the selection or appointment of an officer or director through contract, trust, or operation of law of an insurer, and the person served in that capacity within the two-year period before the date the insurer became insolvent.

Proposed law authorizes the person to act as an MGA if the person demonstrates that his personal actions were not a significant contributing cause to the insurer's insolvency. Further authorizes the commissioner of insurance (commissioner) to approve the person, if at least 5 years have passed since the date the insurer became insolvent.

Proposed law requires an insurer to have an audited financial report that includes the opinion of an independent certified public accountant regarding the financial position of the MGA as of the most recent year-end. Requires inclusion of certain financial information. Further requires the insurer to submit the report to the commissioner upon his request.

Proposed law requires an MGA to quarterly submit an account report to each insurer with whom the MGA has a contract. Requires the MGA to include in the report certain statements regarding written, earned, and unearned premiums; losses and expenses paid and outstanding; losses incurred but not reported; management fees; and outlines of certain expenses.

Proposed law requires an MGA to submit to an examination of the MGA's financial condition as the commissioner deems necessary. Requires the MGA to pay examination expenses in an amount certified by the commissioner.

Proposed law requires an MGA to provide certain financial notifications to the La. Dept. of Insurance (LDI) not later than the 30th day after the date the events occur. Requires notification when any of the following occurs:

- (1) Balances due to an insurer for more than 90 days exceed either \$1,000,000 or 10% of the insurer's policyholder surplus as reported in the MGA's annual statement.
- (2) Balances due for more than 60 days from a property and casualty agent or MGA appointed by or reporting to the MGA exceed \$500,000.
- (3) Authority to settle claims for an insurer is withdrawn.
- (4) Money held for an insurer for losses is greater than an amount that is \$100,000 more than the amount necessary to pay the losses and loss adjustment expenses expected to be paid on the insurer's behalf within the next 60-day period.

- (5) The contract required pursuant to present law (R.S. 22:1624) is cancelled or terminated.

Proposed law authorizes an MGA to satisfy notification requirements of financial circumstances with a single annual report if the MGA routinely operates above certain limits in proposed law and the LDI verifies that fact in conformity with rules adopted by the commissioner.

Proposed law authorizes the commissioner to promulgate and adopt rules in accordance with the APA for purposes of proposed law.

(Amends R.S. 22:1623, 1625(A), and 1626; Adds R.S. 22:1628 and 1629)

#### Summary of Amendments Adopted by House

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

1. Make technical changes.

#### The House Floor Amendments to the engrossed bill:

1. Remove provisions relative to financial examinations of MGAs, registered persons who conduct examinations, and provisions relevant to the compensation of examiners.
2. Prohibit a person from acting as an MGA if the person served in a capacity with direct or indirect control over the selection or appointment of an officer or director through contract, trust, or operation of law of an insurer, and the person served in that capacity within the two-year period before the date the insurer became insolvent.
3. Authorize the person to act as an MGA if the person demonstrates that his personal actions were not a significant contributing cause to the insurer's insolvency. Further authorize the commissioner to approve the person if at least 5 years have passed since the date the insurer became insolvent.
4. Require an insurer to have an audited financial report that includes the opinion of an independent certified public accountant regarding the financial position of the MGA. Further require the insurer to submit the report to the commissioner upon request.
5. Make technical changes.