

ACT No. 353

Regular Session, 2014

HOUSE BILL NO. 1060

BY REPRESENTATIVE THIERRY

1 AN ACT

2 To amend and reenact R.S. 22:1265(D) and (F) and 1333(C) and (D) and to enact R.S.
3 22:1265(I) and (J) and 1333(G) and (H), relative to the renewal of homeowners'
4 insurance; to define the three-year period in which an insurer may cancel a
5 homeowner's policy; to require insurers withdraw from the homeowners' insurance
6 market under certain circumstances; to clarify that an insurer's business plan shall be
7 considered proprietary or trade secret pursuant to the Uniform Trade Secrets Act; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:1265(D) and (F) and 1333(C) and (D) are hereby amended and
11 reenacted and R.S. 22:1265(I) and (J) and 1333(G) and (H) are hereby enacted to read as
12 follows:

13 §1265. Property, casualty, and liability insurance policies; cancellation and
14 nonrenewal provisions; nonrenewal for rate inadequacy; certain prohibitions

15 * * *

16 D. No insurer providing property, casualty, or liability insurance shall cancel
17 or fail to renew a homeowner's policy of insurance or to increase the policy
18 deductible that has been in effect and renewed for more than three years unless based
19 on nonpayment of premium, fraud of the insured, a material change in the risk being
20 insured, two or more claims within a ~~period of three years~~ continuous three-year

1 period of time within the five years preceding the current policy renewal date, or if
 2 continuation of such policy endangers the solvency of the insurer. This Subsection
 3 shall not apply to an insurer that ~~ceases writing~~ withdraws from the homeowner's
 4 homeowners' insurance market in this state or to policy deductibles increased for all
 5 homeowners' policies in ~~the~~ this state. For the purposes of this Subsection, an
 6 incident shall be deemed a claim only when there is a demand for payment by the
 7 insured or the insured's representative under the terms of the policy. A report of a
 8 loss or a question relating to coverage shall not independently establish a claim. As
 9 used in this Subsection, the phrase "two or more claims within a ~~period of three years~~
 10 continuous three-year period of time within the five years preceding the current
 11 policy renewal date" shall not include any loss incurred or arising from an "Act of
 12 God" incident which is due directly to forces of nature and exclusively without
 13 human intervention.

* * *

15 F. Notwithstanding the provisions of Subsection D of this Section, an insurer
 16 may make a filing with the commissioner pursuant to R.S. 22:1464 for authorization
 17 to deviate from the provisions of Subsection D of this Section for the sole purpose
 18 of changing the policy deductible to a total deductible of not more than four percent
 19 of the value of the property being insured for named storms or hurricanes on a
 20 homeowner's policy of insurance that has been in effect for more than three years.
 21 Any insurer filing with the commissioner pursuant to this Subsection shall file with
 22 the commissioner a business plan setting forth the insurer's plan to write new
 23 business in the particular region or area of the state in which the new deductible is
 24 to apply. The commissioner's approval is to be based on the insurer's commitment
 25 to the writing of new business in the respective region or area of the state in which
 26 the new deductible is to apply. The commissioner may also approve a filing that he
 27 determines to be in the best interest of the policyholders. The commissioner may
 28 subsequently rescind his approval of any filing made pursuant to this Subsection in
 29 the event the insurer fails to write new business in accordance with the business plan.
 30 Any business plan filed shall be considered proprietary or trade secret pursuant to

1 information under the provisions of R.S. 44:3.2 and the Uniform Trade Secrets Act.
 2 The commissioner shall provide an annual report to the legislative committees on
 3 insurance on the application and effectiveness of the provisions of this Section. The
 4 commissioner shall promulgate regulations pursuant to the Administrative Procedure
 5 Act setting forth the criteria for the filing, including any financial or other
 6 requirements that he deems necessary to act on the request by an insurer. Any
 7 regulation promulgated by the commissioner pursuant to this Subsection shall
 8 require the insurer to itemize to the insured the premium savings based on the
 9 increase in the insured's deductible.

* * *

11 I. Any authorized property and casualty insurer that avails itself of the
 12 provisions of Subsection D of this Section relative to withdrawing from the
 13 homeowners' insurance market may not issue any homeowners' insurance coverage
 14 in this state during the five-year period beginning on the date of the discontinuation
 15 of the last homeowners' insurance coverage not so renewed. The commissioner may,
 16 for good cause shown pursuant to a written request by the insurer, permit the insurer
 17 to reenter the homeowners' insurance market prior to the expiration of the five-year
 18 period.

19 J. Any approved unauthorized property and casualty insurer that avails itself
 20 of the provisions of Subsection D of this Section relative to withdrawing from the
 21 homeowners' insurance market may not issue any homeowners' insurance coverage
 22 in this state during the five-year period beginning on the date of the discontinuation
 23 of the last homeowners' insurance coverage not so renewed. The commissioner may,
 24 for good cause shown pursuant to a written request by the insurer, permit the insurer
 25 to reenter the homeowners' insurance market prior to the expiration of the five-year
 26 period.

* * *

1 §1333. Homeowner's insurance; insurer's nonrenewal without cause; inclusion in
2 insured's file prohibited; certain prohibitions

3 * * *

4 C. No insurer providing property, casualty, or liability insurance shall cancel
5 or fail to renew a homeowner's policy of insurance or to increase the policy
6 deductible that has been in effect and renewed for more than three years unless based
7 on nonpayment of premium, fraud of the insured, a material change in the risk being
8 insured, two or more claims within ~~a period of three~~ a continuous three-year period
9 of time within the five years preceding the current policy renewal date, or if
10 continuation of such policy endangers the solvency of the insurer. This Subsection
11 shall not apply to an insurer that ~~ceases writing~~ withdraws from the homeowner's
12 homeowners' insurance market in this state or to policy deductibles increased for all
13 ~~homeowners~~ homeowners' insurance policies in ~~the~~ this state. For the purposes of
14 this Subsection, an incident shall be deemed a claim only when there is a demand for
15 payment by the insured or the insured's representative under the terms of the policy.
16 A report of a loss or a question relating to coverage shall not independently establish
17 a claim. As used in this Subsection, the phrase "two or more claims within ~~a period~~
18 of three years a continuous three-year period of time within the five years preceding
19 the current years policy renewal date" shall not include any loss incurred or arising
20 from an "Act of God" incident which is due directly to forces of nature and
21 exclusively without human intervention.

22 D. Notwithstanding the provisions of Subsection C of this Section, an insurer
23 may make a filing with the commissioner pursuant to R.S. 22:1464 for authorization
24 to deviate from the provisions of Subsection C of this Section for the sole purpose
25 of changing the policy deductible to a total deductible of not more than four percent
26 of the value of the property being insured for named storms or hurricanes on a
27 homeowner's policy of insurance that has been in effect for more than three years.
28 Any insurer filing with the commissioner pursuant to this Subsection shall file with
29 the commissioner a business plan setting forth the insurer's plan to write new
30 business in the particular region or area of the state in which the new deductible is

1 to apply. The commissioner's approval is to be based on the insurer's commitment
 2 to the writing of new business in the respective region or area of the state in which
 3 the new deductible is to apply. The commissioner may also approve a filing that he
 4 determines to be in the best interest of the policyholders. The commissioner may
 5 subsequently rescind his approval of any filing made pursuant to this Subsection in
 6 the event the insurer fails to write new business in accordance with the business plan.
 7 Any business plan filed shall be considered proprietary or trade secret pursuant to
 8 information under the provisions of R.S. 44:3.2 and the Uniform Trade Secrets Act.
 9 The commissioner shall provide an annual report to the legislative committees on
 10 insurance on the application and effectiveness of the provisions of this Section. The
 11 commissioner shall promulgate regulations pursuant to the Administrative Procedure
 12 Act setting forth the criteria for the filing, including any financial or other
 13 requirements that he deems necessary to act on the request by an insurer. Any
 14 regulation promulgated by the commissioner pursuant to this Subsection shall
 15 require the insurer to itemize to the insured the premium savings based on the
 16 increase in the insured's deductible.

17 * * *

18 G. Any authorized property and casualty insurer that avails itself of the
 19 provisions of Subsection C of this Section relative to withdrawing from the
 20 homeowners' insurance market may not issue any homeowners' insurance coverage
 21 in this state during the five-year period beginning on the date of the discontinuation
 22 of the last homeowners' insurance coverage not so renewed. The commissioner may,
 23 for good cause shown pursuant to a written request by the insurer, permit the insurer
 24 to reenter the homeowners' insurance market prior to the expiration of the five-year
 25 period.

26 H. Any approved unauthorized property and casualty insurer that avails itself
 27 of the provisions of Subsection C of this Section relative to withdrawing from the
 28 homeowners' insurance market may not issue any homeowners' insurance coverage
 29 in this state during the five-year period beginning on the date of the discontinuation
 30 of the last homeowners' insurance coverage not so renewed. The commissioner may,

1 for good cause shown pursuant to a written request by the insurer, permit the insurer
2 to reenter the homeowners' insurance market prior to the expiration of the five-year
3 period.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____