

2015 Regular Session

SENATE BILL NO. 154

BY SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE COMMISSIONER. Provide for the authority of the commissioner of insurance to require fingerprints of applicants for licenses and certificates of authority. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 22:1921 and 1922, relative to the division of fraud within the
3 Department of Insurance; to provide with respect to licenses and certificates of
4 authority; to provide for the requirement of fingerprinting of applicants; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1921 and 1922 are hereby amended and reenacted to read as
8 follows:

9 §1921. Purpose and powers

10 A. The purpose of this Part is to create within the Department of Insurance
11 a division of insurance fraud. This division shall be charged with the responsibility,
12 when directed by the commissioner of insurance, to conduct investigations and
13 background criminal checks on each applicant for a license or certificate of authority
14 to transact a business of insurance. The division of insurance fraud shall be
15 governed by the provisions of this Part including the powers and duties relating to
16 the investigation and prevention of administrative or civil violations of the insurance
17 laws of this state.

1 B. In the event the applicant is a corporation, partnership, or other legal
2 entity, the investigations and criminal background ~~and~~ checks shall be limited to
3 those individuals who are directors, officers, employees, or individuals who own or
4 control at least ten percent of the entity. An individual who intends to succeed to
5 a position subject to this Subsection or to control, as defined in R.S. 22:691.2(3),
6 at least ten percent of the entity shall undergo an investigation and criminal
7 background check.

8 C. If the division has reason to believe, whether acting on its own initiative
9 or as a result of complaints, that a person has engaged in, or is engaging in, an act or
10 practice that violates this Part or any other provision of this Code, it may examine
11 and investigate the affairs of such person and may administer oaths and affirmations,
12 serve subpoenas ordering the attendance of witnesses, and collect evidence.

13 D. If during the course of investigation, the division of insurance fraud
14 determines that there may be a violation of criminal law, the division shall turn the
15 matter over to the Department of Justice; the Department of Public Safety and
16 Corrections, public safety services, office of state police; and any other appropriate
17 law enforcement or prosecutorial agency, for further investigation, enforcement, or
18 prosecution.

19 §1922. Additional powers and duties

20 A. The division of insurance fraud ~~is authorized to~~ shall have access to
21 computer systems, information maintained for the use of law enforcement personnel,
22 any information contained in the criminal history record and identification file of the
23 Louisiana Bureau of Criminal Identification and Information, and direct and timely
24 access to information compiled by the Federal Bureau of Investigation, as contained
25 in the National Crime Information Center, for the purposes of carrying out its
26 responsibilities under this Part.

27 B. The commissioner ~~of insurance~~ may require each applicant for a license
28 or certificate of authority to submit ~~physical evidence of~~ fingerprints to verify the
29 identity of the applicant. An applicant's fingerprints shall be made electronically

1 or by ink and converted to electronic format. The commissioner of insurance may
2 promulgate rules and regulations defining the type of physical identification are
3 acceptable and the manner in which such evidence is to be received by the
4 Department of Insurance.

5 C. In order to make a determination of eligibility, the commissioner is
6 authorized to require fingerprints and fees of applicants and to submit the
7 fingerprints and the fee required to perform the criminal history record checks
8 to the Louisiana Bureau of Criminal Identification and Information and the
9 Federal Bureau of Investigation ("FBI") for state and national criminal history
10 record checks. The commissioner shall require a criminal history record check
11 on each applicant in accordance with this Section. The commissioner shall
12 require each applicant to submit a full set of fingerprints in order for the
13 commissioner to obtain and receive National Criminal History Records from
14 the FBI Criminal Justice Information Services Division.

15 (1) The commissioner may contract for the collection, transmission, and
16 resubmission of fingerprints required under this Section. If the commissioner
17 elects to enter into a contract, the fee for collecting, transmitting, and retaining
18 fingerprints shall be payable directly to the contractor by the applicant.

19 (2) The commissioner may receive criminal history record information
20 from sources other than the Louisiana Bureau of Criminal Identification and
21 Information.

22 D. The commissioner of insurance may deny a license or certificate of
23 authority when the applicant, or if the applicant is a corporation, partnership, limited
24 liability company or partnership, or other legal entity, any officer, director, managing
25 person, employee, or principal stockholder has been convicted of a felony.

26 ~~D.~~ E. The commissioner of insurance may issue a commission authorizing the
27 deputy commissioner of insurance fraud or any compliance investigator who is
28 certified by the Council on Peace Officer Standards and Training (P.O.S.T.), or who
29 may be qualified by the P.O.S.T. Council, to carry and use firearms in performance

1 of their duties in investigating suspected administrative or civil insurance fraud.

2 These powers and privileges shall not include arrest powers. The commissioner shall
3 also provide appropriate credentials and badges of authority.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

SB 154 Engrossed

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Gary Smith

Present law creates the division of insurance fraud within the Department of Insurance that is charged with the responsibility to conduct investigations and background criminal checks on each applicant for a license or certificate of authority to transact a business of insurance. In the event the applicant is a corporation, partnership, or other legal entity, background checks shall be limited to those individuals who are directors, officers, employees, or individuals who own or control at least ten percent of the entity.

Proposed law retains present law and requires an individual who intends to succeed to a position as director, officer, or employee, or who controls at least ten percent of the entity to undergo an investigation and criminal background check.

Present law requires the division of insurance fraud to have access to computer systems, information maintained for the use of law enforcement personnel, any information contained in the criminal history record and identification file of the Louisiana Bureau of Criminal Identification and Information, and direct and timely access to information compiled by the Federal Bureau of Investigation, as contained in the National Crime Information Center.

Proposed law retains present law and permits the commissioner to require each applicant for a license or certificate of authority to submit fingerprints to verify the identity of the applicant. An applicant's fingerprints shall be made electronically or by ink and converted to electronic format.

Proposed law authorizes the commissioner to require fingerprints and fees of applicants and to submit the fingerprints and the associated fee to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information as well as the FBI for state and national criminal history record checks. Each applicant shall submit a full set of fingerprints in order for the commissioner to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

Proposed law permits the commissioner to contract for the collection, transmission, and resubmission of fingerprints required under proposed law. Any fee for services by the contractor shall be payable directly to the contractor by the applicant.

Proposed law permits the commissioner to receive criminal history record information from sources other than the Louisiana Bureau of Criminal Identification and Information.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S.22:1921 and 1922)