

RÉSUMÉ DIGEST

ACT 162 (SB 154)

2015 Regular Session

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Prior law defined "control" in the Insurance Code (R.S. 22:691.2(3)) to mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Provided that control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person and provides that this presumption may be rebutted.

Prior law created 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. If 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 10% of the entity.

New law retains these provisions but removes the 10% threshold and provides that background checks apply to individuals who exercise control as presently defined in the Insurance Code.

New law requires an individual who intends to succeed to a position as director, officer, or employee, or who exercises control of the entity as defined in the Insurance Code to undergo an investigation and criminal background check.

Prior law required 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.

New law retains prior 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.

New 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.

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

New 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 (June 23, 2015).

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