

2016 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVE THIBAUT

INSURANCE: Provides for licensing and regulation of insurance consultants by the commissioner of insurance

1 AN ACT

2 To amend and reenact R.S. 22:1573(A) and (C) through (E) and R.S. 44:4.1(B)(11) and to  
3 enact R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana  
4 Revised Statutes of 1950, to be comprised of R.S. 22:1808.1 through 1808.13,  
5 relative to the licensing and regulation of insurance consultants by the commissioner  
6 of insurance; to provide for licensing and renewals; to provide for definitions; to  
7 provide for fees; to provide for qualifications; to provide for examinations; to  
8 provide for continuing education requirements; to provide for reciprocity with other  
9 states; to provide for confidentiality; to provide for public records exception; to  
10 provide for exemptions from certain requirements; to provide for civil and criminal  
11 penalties for certain violations; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:1573(A) and (C) through (E) are hereby amended and reenacted  
14 and R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana Revised  
15 Statutes of 1950, comprised of R.S. 22:1808.1 through 1808.13, are hereby enacted to read  
16 as follows:

1 §821. Fees

2 \* \* \*

3 B. The following fees and licenses shall be collected in advance by the  
4 commissioner of insurance:

5 \* \* \*

6 (38) For insurance consultants' licenses:

7 (a) Life, health, and accident consultant; variable annuity  
8 consultant

9 First time applicant. . . . . \$75.00

10 Consultant renewal fee (every two years). . . \$50.00

11 (b) Property and casualty consultant

12 First time applicant. . . . . \$75.00

13 Consultant renewal fee (every two years). . . \$50.00

14 \* \* \*

15 §1573. Continuing education requirements

16 A. The continuing education requirements for renewal of license under R.S.  
17 22:1547(C)(3) and 1808.4(C)(3) are set forth in this Section. The continuing  
18 education requirement shall be fulfilled by satisfactory completion of the required  
19 hours of instruction in continuing education programs approved by the  
20 commissioner.

21 \* \* \*

22 C. Life insurance producers and consultants and health insurance producers  
23 and consultants shall complete twenty-four hours of approved instruction or  
24 verifiable approved self-study prior to each renewal of license, with at least three  
25 hours dedicated to the subject of ethics.

26 D. Insurance producers authorized to write property, casualty, or property  
27 and casualty or personal lines insurance business and property, casualty, or property  
28 and casualty insurance consultants shall complete twenty-four hours of approved

1 instruction or verifiable approved self-study before each renewal of license with at  
2 least three hours of approved instruction dedicated to the subject of ethics.

3 E. For producers authorized to write life, health and accident insurance and  
4 also authorized to write property, casualty, or property and casualty or personal lines  
5 insurance business, and consultants authorized to consult on life, health and accident  
6 insurance and also authorized to consult on property, casualty, or property and  
7 casualty or personal lines insurance business, the continuing education requirement  
8 for renewal of license shall be twenty-four hours of approved instruction or verifiable  
9 approved self-study with at least three hours of approved instruction or verifiable  
10 approved self-study dedicated to the subject of ethics.

11 \* \* \*

12 §1808.1. License required

13 A. No person shall act as, or hold himself out to be, an insurance consultant  
14 unless licensed by the Department of Insurance.

15 B.(1) "Insurance consultant" means any person or entity which offers for a  
16 fee or other valuable consideration any advice, counsel, opinion, or related services  
17 with respect to risk evaluation or management, the benefits, coverages, exclusions,  
18 or provisions under any policy of insurance to be issued in this state, or involving the  
19 advantages or disadvantages of any such policy of insurance, or any formal plan of  
20 managing risk.

21 (2) "Insurance consultant" for the purposes of this Part shall not include:

22 (a) Attorneys while working in the capacity of an attorney.

23 (b) Litigation support or insurance expert witness services related to litigated  
24 matters.

25 (c) Public adjusters.

26 (d) Claims adjusters, appraisers, contractors or engineers engaged in the  
27 settlement of insurance claims, who do not have a direct or indirect financial interest  
28 in any aspect of the claim, other than the compensation established in the written  
29 contract with the insured.

1        §1808.2. Examination

2                A. A resident individual applying for an insurance consultant license shall  
3        pass an examination unless exempt pursuant to R.S. 22:1808.6. The examination  
4        shall test the knowledge of the individual concerning the lines of authority for which  
5        application is made, the duties and responsibilities of an insurance consultant, and  
6        the insurance laws and regulations of this state. Examinations required by this Part  
7        shall be developed and conducted under rules and regulations prescribed by the  
8        commissioner of insurance.

9                B.(1) After completion and filing of an application with the commissioner  
10        of insurance, the commissioner shall subject each applicant for a license as an  
11        insurance consultant to an examination.

12                (2) If the applicant is a partnership, corporation, or other business entity, the  
13        examination shall be taken by each individual who is to be named in or registered on  
14        the license for the partnership, corporation, or other business entity and who is  
15        engaged in insurance consulting, and by all insurance consultant employees of such  
16        entity.

17                (3) Each line of insurance which the applicant proposes to consult under the  
18        license applied for shall require an examination to be taken.

19                (4) The applicant shall pass the examination with a score at or above the  
20        seventieth percentile to indicate a satisfactory knowledge and understanding of each  
21        line of insurance for which the applicant seeks qualification.

22                C.(1) Prior to taking the examination required by this Part, any person  
23        applying for a license as an insurance consultant shall file with the Department of  
24        Insurance, in a manner prescribed by the commissioner of insurance, certification  
25        that the applicant has completed a registered prelicensing program certified by the  
26        commissioner pursuant to R.S. 22:1571.

1           (2) A person applying for a license as an insurance consultant for  
2 authorization to consult on life insurance shall be exempt from any prelicensing  
3 education requirements if he has one of the following designations:

4           (a) Certified Employee Benefit Specialist (CEBS).

5           (b) Chartered Financial Consultant (ChFC).

6           (c) Certified Insurance Counselor (CIC).

7           (d) Certified Financial Planner (CFP).

8           (e) Chartered Life Underwriter (CLU).

9           (f) The Fellow, Life Management Institute (FLMI).

10          (g) The LUTC Fellow Designation (LUTCF).

11          (3) A person applying for a license as an insurance consultant for  
12 authorization to consult on health and accident insurance shall be exempt from any  
13 prelicensing education requirements if he has one of the following designations:

14          (a) Registered Health Underwriter (RHU).

15          (b) Certified Employee Benefit Specialist (CEBS).

16          (c) Registered Employee Benefits Consultant (REBC).

17          (d) Health Insurance Associate (HIA).

18          (4) A person applying for a license as an insurance consultant for  
19 authorization to consult on property or casualty insurance shall be exempt from any  
20 prelicensing education requirements if he has one of the following designations:

21          (a) Accredited Advisor in Insurance Program (AAI).

22          (b) Associate in Risk Management (ARM).

23          (c) Certified Risk Manager (CRM).

24          (d) Certified Insurance Counselor (CIC).

25          (e) Chartered Property and Casualty Underwriter (CPCU)

26          (5) A person applying for a license as an insurance consultant to consult on  
27 any line of insurance and having a bachelor's degree or higher from an accredited  
28 college or university with major course work in insurance shall be exempt from any  
29 prelicensing education requirements.

1           (6) A person who already holds an insurance producer license for a line of  
2           business shall be exempt from any prelicensing education and examination  
3           requirements for an insurance consultant license for the same line of business.

4           D. All examinations shall be conducted frequently and at a place or places  
5           reasonably accessible to all applicants. The commissioner of insurance shall  
6           promulgate reasonable rules and regulations providing the procedure for the  
7           examinations.

8           E. The content of the examination may be outlined in the licensing  
9           information handbook provided to applicants by the Department of Insurance,  
10          publishers of examination study materials, any prelicensing providers, and others  
11          wishing to provide this information.

12          F. The commissioner may contract, in accordance with R.S. 39:1551 et seq.,  
13          with one or more private testing services for administering examinations and  
14          collecting examination fees. The commissioner may require that the applicant pay  
15          the cost of the examination directly to the testing firm.

16          G. A person who fails to appear for the examination as scheduled, or fails  
17          to pass the examination, shall reapply for an examination and remit all required fees  
18          and forms before being rescheduled for another examination.

19          H. The commissioner of insurance may provide to a testing service provider  
20          under contract with the Department of Insurance any demographic information  
21          received by the department on applications relating to examinations taken to qualify  
22          for an insurance consultant license if the commissioner requires the provider to  
23          review and analyze examination results in conjunction with the education level,  
24          gender, native language, race, or ethnicity of examinees.

25          §1808.3. Application for license

26          A. A person applying for a resident insurance consultant license shall apply  
27          to the commissioner of insurance on the application promulgated by the Department  
28          of Insurance and declare under penalty of refusal, suspension, or revocation of the  
29          license that the statements made in the application are true, correct, and complete to

1 the best of the individual's knowledge and belief. Before approving the application,  
2 the commissioner shall find that the individual:

3 (1) Is at least eighteen years of age.

4 (2) Resides in the state or maintains his principal place of business in the  
5 state.

6 (3) Is not disqualified for having committed any act that is a ground for  
7 denial, suspension, or revocation as set forth in R.S. 22:1808.8.

8 (4) Has completed a preclicensing course of study for the lines of authority  
9 for which the person has applied, if required.

10 (5) Has paid the fees set forth in R.S. 22:821.

11 (6) Has successfully passed the examinations for the lines of authority for  
12 which the person has applied.

13 (7) When applicable, has the written consent of the commissioner of  
14 insurance pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by  
15 or affecting persons engaged in the business of insurance whose activities affect  
16 interstate commerce.

17 B.(1)(a) A business entity acting as an insurance consultant is required to  
18 obtain an insurance consultant license. Every member, partner, officer, director,  
19 stockholder, and employee of the business entity personally engaged in this state in  
20 insurance consulting shall be registered with the Department of Insurance under such  
21 business entity's license, and each such member, partner, officer, director,  
22 stockholder, or employee shall also qualify as an individual licensee for any line of  
23 insurance consulting the business entity is licensed to transact. Licensing of any  
24 limited liability company or limited liability partnership as an insurance consultant  
25 is subject to prior approval of the commissioner of insurance.

26 (b) The business entity licensee shall notify the commissioner of insurance  
27 within thirty days of any change of status of an individual who is registered under  
28 the business entity license.

1           (c) Any business entity operating at more than one location shall notify the  
2           commissioner of insurance of each permanent branch location address within thirty  
3           days from the date of the opening of the new location. There shall be at least one  
4           individual licensed insurance consultant registered with the Department of Insurance  
5           for each branch location.

6           (d) Any business entity which fails to comply with this Subpart shall be  
7           subjected to a fine of one hundred dollars for each violation. Any entity against  
8           which a fine has been levied shall be given due notice of such action. Upon receipt  
9           of this notice, the entity may apply for and shall be entitled to a hearing in  
10          accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

11          (2) Application shall be made using the application promulgated by the  
12          Department of Insurance. Before approving the application, the commissioner of  
13          insurance shall find that:

14           (a) The business entity has paid the fees set forth in R.S. 22:821.

15           (b) The business entity has designated one or more licensed individual  
16          consultants responsible for the business entity's compliance with the insurance laws,  
17          rules, and regulations of this state.

18          (3) When completing the background information portion of the application  
19          pertaining to the disclosure of certain lawsuits or arbitration proceedings,  
20          corporations, banks, partnerships, and directors shall disclose those proceedings  
21          occurring within the past five years which are considered to be material under  
22          generally accepted accounting principles for purposes of financial statement  
23          disclosure.

24          C.(1) The commissioner of insurance may require any documents deemed  
25          necessary to verify the information contained in an application.

26          (2)(a) In order to make a determination of license eligibility, the  
27          commissioner of insurance shall require a full set of fingerprints from each applicant  
28          and shall submit the fingerprints and the fees required to perform the criminal history



1 record checks to the Louisiana Bureau of Criminal Identification and Information for  
2 state and national criminal history record checks.

3 (b) The commissioner of insurance may contract for the collection,  
4 transmission, and re-submission of fingerprints required pursuant to this Part. If the  
5 commissioner of insurance does so, the fee for collecting and transmitting  
6 fingerprints and the fee for the criminal history record check shall be payable directly  
7 to the contractor by the applicant. The commissioner of insurance may agree to a  
8 reasonable fingerprinting fee to be charged by the contractor.

9 (c)(i) The commissioner of insurance shall treat and maintain an applicant's  
10 fingerprints and any criminal history record information obtained pursuant to this  
11 Part as confidential and shall apply security measures consistent with the Criminal  
12 Justice Information Services Division of the Federal Bureau of Investigation  
13 standards for the electronic storage of fingerprints and necessary identifying  
14 information and limit the use of records solely to the purposes authorized in this Part.

15 (ii) The fingerprints and any criminal history record information shall be  
16 exempt from the Public Records Law, R.S. 44:1 et seq., shall not be subject to  
17 subpoena, other than a subpoena issued in a criminal proceeding or investigation,  
18 shall be confidential by law and privileged, and shall not be subject to discovery or  
19 admissible in evidence in any private civil action.

20 D. Any license issued pursuant to an application claiming residency, as  
21 defined in R.S. 22:46, shall constitute an election of residency in the state, and shall  
22 be void if the licensee while maintaining a resident license also maintains a license  
23 in, or thereafter submits an application for a license in, any other state or other  
24 jurisdiction stating that the applicant is a resident of such other state or jurisdiction,  
25 or if the licensee ceases to be a resident of this state.

1        §1808.4. License

2            A. Unless denied licensure pursuant to R.S. 22:1808.8, persons who have  
3        met the requirements of this Part shall be issued an insurance consultant license. An  
4        insurance consultant may receive qualification for a license in one or more of the  
5        following lines of authority:

6            (1) Life, which provides insurance coverage on human lives including  
7        benefits of endowment and annuities, and may include benefits in the event of death  
8        or dismemberment by accident and benefits for disability income.

9            (2) Health and accident, which provides insurance coverage for sickness,  
10       bodily injury, or accidental death, and may include benefits for disability income.

11          (3) Variable life and variable annuity products.

12          (4) Property, which provides insurance coverage for the direct or  
13       consequential loss or damage to property of every kind.

14          (5) Casualty, which provides insurance coverage against legal liability,  
15       including that for death, injury or disability, or damage to real or personal property.

16          B. Subject to the requirements of Subsection C of this Section, an insurance  
17       consultant license shall remain in effect, unless revoked, suspended, or denied  
18       renewal or reinstatement, as long as all applicable fees are paid and education  
19       requirements are satisfied, until the license expires or is surrendered by the holder  
20       thereof.

21          C.(1) Every licensed consultant shall file an application for renewal of his  
22       license every two years, by notifying the commissioner of insurance, by methods  
23       prescribed by the commissioner, of the licensee's intention to renew his license as a  
24       consultant.

25          (2) Any licensee who fails to file timely for license renewal shall be charged  
26       a late fee as authorized by R.S. 22:821.

27          (3)(a) Prior to the filing date for the application for renewal of a license, the  
28       licensee shall comply with the continuing education requirements in R.S. 22:1573  
29       for the lines of insurance being renewed.

1           (b) Such consultant shall file with the commissioner of insurance, by a  
2           method prescribed by the commissioner, satisfactory certification of completion of  
3           the continuing education requirements.

4           (c) Any failure to fulfill the continuing education requirements shall result  
5           in the expiration of the license.

6           D. An insurance consultant who allows his license to lapse may, within two  
7           years from the expiration date of the license, reinstate the same license upon proof  
8           of fulfilling all continuing education requirements through the date of reinstatement  
9           and upon payment of all fees due. If the license has been lapsed for more than two  
10          years, the applicant shall fulfill the requirements for issuance of a new license.

11          E. A licensed insurance consultant who is unable to comply with license  
12          renewal procedures due to military service or other extenuating circumstance, such  
13          as a long-term medical disability, may request a waiver of those procedures. The  
14          consultant may also request a waiver of any examination requirement or any other  
15          fine or sanction imposed for failure to comply with renewal procedures.

16          F. The license shall state the name and mailing address of the licensee, date  
17          of issuance, the renewal or expiration date, the line or lines of insurance covered by  
18          the license, and such other information as the commissioner of insurance deems  
19          necessary.

20          G. Every licensee shall notify the commissioner, by any means acceptable  
21          to the commissioner, of any change in his residential, mailing, or business address  
22          within thirty days of the change. Failure to file an address change within the  
23          required time shall result in the imposition of a fifty-dollar penalty per violation.  
24          Any person against whom a penalty has been levied shall be given due notice of such  
25          action. Upon receipt of this notice, the licensee may apply for and shall be entitled  
26          to a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

27          H. A duplicate license may be issued for any lost, stolen, or destroyed  
28          license issued pursuant to this Part upon a request by the licensee, by a method

1 prescribed by the commissioner, setting forth the facts of such loss, theft, or  
2 destruction, together with a fee as authorized by R.S. 22:821.

3 I. In order to assist in the performance of the commissioner's duties, the  
4 commissioner may contract with nongovernmental entities, including the National  
5 Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that  
6 the NAIC oversees, to perform any ministerial functions, including the collection of  
7 fees, related to consultant licensing that the commissioner and the nongovernmental  
8 entity may deem appropriate.

9 §1808.5. Nonresident licensing

10 A. Unless denied licensure pursuant to R.S. 22:1808.8, a nonresident person  
11 shall receive a nonresident consultant license if:

12 (1) The person is currently licensed as a resident for an equivalent license  
13 and in good standing in his home state.

14 (2) The person has submitted the proper request for licensure and has paid  
15 the fees required by R.S. 22:821.

16 (3) The person has submitted or transmitted to the commissioner of  
17 insurance the application for licensure that the person submitted to his home state.

18 (4) The person's home state awards nonresident consultant licenses to  
19 residents of this state on the same basis.

20 B.(1) The commissioner of insurance may verify the consultant's licensing  
21 status through the consultant database maintained by the National Association of  
22 Insurance Commissioners, its affiliates, or subsidiaries.

23 (2) Whenever, by the laws or regulations of any other state or jurisdiction,  
24 any limitation of rights and privileges, conditions precedent, or any other  
25 requirements are imposed upon residents of this state who are nonresident applicants  
26 or licensees of such other state or jurisdiction in addition to, or in excess of, those  
27 imposed on nonresidents pursuant to this Part, the same requirements shall be  
28 imposed upon such residents of such other state or jurisdiction.

1           (3)(a) The commissioner of insurance shall not issue a license to any  
2           nonresident applicant until such applicant has filed forms approved by the  
3           commissioner which designate the commissioner as his true and lawful agent, upon  
4           whom may be served all lawful process in any action, suit, or proceeding instituted  
5           by or on behalf of any interested person arising out of the applicant's insurance  
6           business in this state. The designation shall constitute an agreement that such service  
7           of process has the same legal force and validity as personal service of process upon  
8           the person in the state.

9           (b) The service of process upon any such licensee in any action or  
10          proceeding in any court of competent jurisdiction may be made by a party serving  
11          the commissioner of insurance with appropriate copies thereof and the payment to  
12          him of the fee authorized by R.S. 22:821.

13          (c) The commissioner of insurance shall, within ten days of being served,  
14          forward a copy of such process by registered or certified mail, return receipt  
15          requested, to the licensee at his last known address of record or principal place of  
16          business, and the commissioner shall maintain copies of all such processes so served  
17          upon him.

18          (4) The service of process upon any such licensee in any action or  
19          proceeding instituted by the commissioner of insurance pursuant to this Part shall be  
20          made by the commissioner by mailing such process by registered or certified mail,  
21          return receipt requested, to the licensee at his last known address of record or  
22          principal place of business.

23          C. A nonresident consultant who moves from one state to another state or a  
24          resident consultant who moves from this state to another state shall file a change of  
25          address and provide certification from the new resident state within thirty days of the  
26          change of legal residence. No fee or license application is required.

27          §1808.6. Exemption from examination

28          A. An individual who applies for an insurance consultant license in this state  
29          who was previously licensed as a resident insurance consultant for the same lines of

1 authority in another state shall not be required to complete any prelicensing  
2 education or examination. This exemption is available only if the person is currently  
3 licensed in that state or if the application is received within ninety days of the  
4 cancellation of the applicant's previous license and if the prior state issues a  
5 certification that, at the time of cancellation, the applicant was in good standing in  
6 that state or by the National Association of Insurance Commissioners, its affiliates  
7 or subsidiaries, and the certification indicates that the consultant is or was licensed  
8 in good standing for the line of authority requested.

9 B. A person licensed as an insurance consultant in another state who moves  
10 to this state shall make application within ninety days of establishing legal residence  
11 in this state to become a resident licensee pursuant to R.S. 22:1808.3. No  
12 prelicensing education or examination shall be required of that person to obtain a  
13 consultant license for any line of authority previously held in the prior state except  
14 where the commissioner of insurance determines otherwise by regulation.

15 C. Resident applicants shall be exempt from the requirement of an  
16 examination for a license covering the same line or lines of insurance for which the  
17 applicant was licensed under a similar license in this state within two years from the  
18 date of expiration of the previous license, unless such previous license was revoked  
19 or suspended or renewal was refused by the commissioner.

20 §1808.7. Assumed names

21 A. An insurance consultant doing business under any name other than the  
22 consultant's legal name is required to notify the commissioner of insurance prior to  
23 using the assumed name. Prior to the use of or changes to any trade name or names,  
24 an insurance consultant shall provide written notification of such use or change to  
25 the commissioner, on a form prescribed by the commissioner. A letter of registration  
26 from the secretary of state shall accompany the application for a trade name.

27 B. The use by any insurance consultant of a nonapproved trade name shall  
28 subject such person to a fine not exceeding two hundred fifty dollars. Additionally,  
29 if the insurance consultant continues to utilize a nonapproved trade name for ten or

1 more days after being notified by the commissioner to cease using the nonapproved  
2 trade name, the insurance consultant will be subject to an additional fine not to  
3 exceed five thousand dollars. If applicable, an insurance consultant shall comply  
4 with the provisions of R.S. 51:281 et seq.

5 §1808.8. License denial, nonrenewal, or revocation

6 A. The commissioner of insurance may place on probation, suspend, revoke,  
7 or refuse to issue, renew, or reinstate an insurance consultant license, or may levy a  
8 fine not to exceed five hundred dollars for each violation occurring, up to ten  
9 thousand dollars aggregate for all violations in a calendar year per applicant or  
10 licensee, or any combination of these actions, for any one or more of the following  
11 causes:

12 (1) The failure to comply with any prerequisite of state or federal law or  
13 regulations for the issuance of such license.

14 (2) Providing incorrect, misleading, incomplete, or materially false  
15 information, or omission of material information, in the license or renewal  
16 application.

17 (3) The failure to account for or remit any premiums, monies, or properties  
18 belonging to another which come into the possession of the applicant in the course  
19 of doing insurance business, or improperly withholding, misappropriating,  
20 converting, or failing to timely remit any premiums, monies, or properties received  
21 in the course of doing insurance business, whether such premiums, monies, or  
22 properties belong to policyholders, insurers, beneficiaries, claimants, or others.

23 (4) Using fraudulent, coercive, or dishonest practices or misrepresentation,  
24 or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the  
25 conduct of business such as might endanger the public.

26 (5) Misrepresenting the terms of an actual or proposed insurance contract,  
27 binder, rider, plan, or application for insurance, including all forms or documents  
28 that are attached, or will be attached, to an actual or proposed insurance contract,  
29 binder, rider, plan, or application for insurance.

1           (6) Having admitted or been found to have committed any insurance unfair  
2           trade practice under R.S. 22:1961 et seq. or fraud under R.S. 22:1964 et seq.

3           (7) The conviction or nolo contendere plea to any felony, participation in a  
4           pretrial diversion program pursuant to a felony charge, suspension and deferral of  
5           sentence and probation pursuant to Article 893 of the Code of Criminal Procedure,  
6           or conviction of any misdemeanor involving moral turpitude or public corruption.

7           (8) Obtaining or attempting to obtain a license through misrepresentation or  
8           fraud, or improperly using notes or any other reference material to complete an  
9           examination for an insurance license, or otherwise cheating or attempting to cheat  
10          on an examination for an insurance license of any kind.

11          (9) The adjudication of bankruptcy with debts related to the receipt or  
12          transmittal of insurance premiums or other funds to an insurer or insured in any  
13          fiduciary capacity of the applicant, or issuance to the Department of Insurance of an  
14          insufficient fund or no-fund check.

15          (10) Forging another's name to an application for insurance or to any  
16          document related to an insurance transaction.

17          (11) Having an insurance consultant license, or its equivalent, denied,  
18          suspended, or revoked in this or any other state, province, district, or territory.

19          (12) The violation of any insurance laws of the United States, this state or  
20          any state, province, district, or territory, or violating any lawful rule, regulation,  
21          subpoena, or order of the commissioner of insurance or of the insurance officials of  
22          another state.

23          (13) The refusal to submit physical evidence of identity or the conviction of  
24          a felony, in accordance with R.S. 22:1922(B) and (C).

25          (14) The failure to comply with an administrative or court order imposing  
26          a child support obligation.

27          (15) The failure to pay state income taxes or comply with any administrative  
28          or court order directing payment of state income taxes.



1           (16) Employing or allowing to associate with his business, in any manner,  
2           any person engaged in the business of insurance who has been convicted of a felony  
3           under the laws of this state or any other state, the United States, or any foreign  
4           country. As used in this Part, business of insurance means the writing of insurance  
5           or the reinsuring of risks by an insurance consultant or insurer, including all acts  
6           necessary or incidental to such writing or reinsuring, and the activities of persons  
7           who act as, or are, officers, directors, agents, or employees of consultants or insurers,  
8           or who are other persons authorized to act on behalf of such persons.

9           (17) The conviction of a felony involving dishonesty or breach of trust  
10           pursuant to 18 U.S.C. §1033 and §1034, without written consent from the  
11           commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute  
12           regulating crimes by or affecting persons engaged in the business of insurance whose  
13           activities affect interstate commerce.

14           B. If the commissioner denies any application for a license in accordance and  
15           compliance with R.S. 49:961, the commissioner shall notify the applicant and advise  
16           the applicant in writing of the reasons for the denial. An aggrieved party affected by  
17           the commissioner's decision, act, or order may demand a hearing in accordance with  
18           Chapter 12 of this Title, R.S. 22:2191 et seq.

19           C. In the event the commissioner suspends or revokes a license, or refuses  
20           the renewal or reinstatement of a license, or levies a fine, with or without suspension,  
21           revocation, or refusal to renew a license, the commissioner, in accordance and  
22           compliance with R.S. 49:961, shall notify the licensee in writing of the  
23           determination. Any such suspension or revocation of a license, or refusal to renew  
24           or reinstate a license, shall include all lines of insurance for which the licensee was  
25           authorized. An aggrieved party affected by the commissioner's decision, act, or  
26           order may demand a hearing in accordance with Chapter 12 of this Title, R.S.  
27           22:2191 et seq.

28           D. The license of a business entity may be suspended or revoked, or renewal  
29           or reinstatement thereof may be refused, or a fine may be levied, with or without a

1 suspension, revocation, or refusal to renew a license, if the commissioner finds, in  
2 accordance and compliance with R.S. 49:961, that an individual licensee's violation  
3 was known or should have been known by one or more of the partners, officers, or  
4 managers acting on behalf of the business entity and the violation was not reported  
5 to the Department of Insurance and no corrective action was undertaken timely. Any  
6 such suspension or revocation of a license, or refusal to renew or reinstate a license,  
7 shall include all lines of insurance for which the licensee was authorized.

8 E.(1) No licensee whose license has been revoked pursuant to this Section  
9 shall be entitled to file another application for a license within one year from the  
10 effective date of such revocation, or, if judicial review of such revocation is sought,  
11 within one year from the date of final court order or decree affirming such  
12 revocation. A subsequent application, when filed, may be refused by the  
13 commissioner of insurance unless the applicant shows good cause why the  
14 revocation of his license should not be deemed a prohibition to the issuance of a new  
15 license.

16 (2) Any license which has been reissued following revocation shall be  
17 revoked for a period not to exceed five years upon a second violation by the licensee  
18 of any of the provisions of this Section. No licensee whose license has been revoked  
19 pursuant to this Paragraph shall be entitled to file another application for a license  
20 within the revocation period. A subsequent application, when filed, may be refused  
21 by the commissioner of insurance unless the applicant shows good cause why the  
22 revocation of his license should not be deemed a prohibition to the issuance of a new  
23 license.

24 F. Upon suspension, revocation, or termination of the license of a resident  
25 of this state, the commissioner shall notify the National Association of Insurance  
26 Commissioners and the proper insurance official of each state for whom the  
27 commissioner has executed a certificate as provided for herein.

28 G. If the commissioner revokes or suspends any nonresident's license  
29 through a proceeding pursuant to this Section, he shall promptly notify the

1 appropriate insurance official of the licensee's place of residency of such action and  
2 of the particulars thereof.

3 H. The commissioner of insurance shall retain the authority to enforce the  
4 provisions of, and impose any penalty or remedy authorized by, this Section against  
5 any person who is under investigation for or charged with a violation of this Section,  
6 even if the person's license has been surrendered or has lapsed by operation of law.

7 §1808.9. Commissions

8 A. No person or business entity licensed and acting as an insurance  
9 consultant under a written agreement pursuant to R.S. 22:1808.11, shall accept any  
10 commission, service fee, brokerage, or other valuable consideration for selling,  
11 soliciting, or negotiating insurance in this state.

12 B.(1) No member of an insurance advisory committee of any state agency,  
13 board, commission, or of any political subdivision of this state, including but not  
14 limited to school boards, levee boards, deep water port commissions, deep water  
15 port, harbor and terminal districts, and the Louisiana Stadium and Exposition  
16 District, shall split, pass on, or share with any insurance consultant or other person  
17 who is not a member of his own firm or corporation and is not a member of such an  
18 insurance advisory committee, all or any portion of the commission derived by such  
19 committee from the purchase of insurance by such state agency, board, commission,  
20 or political subdivision of the state without express authorization by official action  
21 of such state agency, board, commission, or political subdivision of the state. Any  
22 insurance consultant or other person who is not a member of such firm or corporation  
23 and is not a member of such an insurance advisory committee who receives without  
24 authorization all or any portion of such commission shall also be in violation of this  
25 Section.

26 (2) Any person who violates the provisions of this Section shall, upon  
27 conviction, be fined not less than one thousand dollars, nor more than five thousand  
28 dollars per violation, or imprisoned for not more than two years, or both.

1           (3) Any conviction for a violation of the provisions of this Section shall  
2           constitute grounds for suspension or revocation by the commissioner of insurance  
3           of the license of such insurance consultant, in addition to those grounds of R.S.  
4           22:1808.8.

5           §1808.10. Reciprocity; non-reciprocal states or other jurisdictions

6           A. The commissioner of insurance shall waive any requirements for a  
7           nonresident license applicant with a valid license from his home state, except the  
8           requirements imposed by R.S. 22:1808.5, if the applicant's home state awards  
9           nonresident licenses to residents of this state on the same basis.

10           B. A nonresident consultant's satisfaction of his home state's continuing  
11           education requirements for licensed insurance consultants shall constitute  
12           satisfaction of this state's continuing education requirements if the nonresident  
13           consultant's home state recognizes the satisfaction of its continuing education  
14           requirements imposed upon consultants from this state on the same basis.

15           C. Whenever, by the laws or regulations of any other state or jurisdiction,  
16           any limitation of rights and privileges, conditions precedent, or any other  
17           requirements are imposed upon residents of this state who are nonresident applicants  
18           or licensees of such other state or jurisdiction in addition to, or in excess of, those  
19           imposed on nonresidents pursuant to this Part, the same such requirements shall be  
20           imposed upon such residents of such other state or jurisdiction. This Part shall not  
21           apply to fees, which shall be as authorized by R.S. 22:821.

22           1808.11. Disclosure agreement and compensation

23           A. The services to be provided by the consultant to the insured and  
24           prospective insureds.

25           (2) The beginning and ending date of the agreement.

26           (3) Any insurance to which the contract for consulting services applies.

27           (4) The arrangements for compensation of the consultant, whether by a flat  
28           rate, hourly rate, or other valuable consideration.

29           (5) Whether the consultant is dually licensed as an insurance producer.

1           (6) Whether the consultant has any financial or business interest in or  
2           affiliation with any insurance producer, broker, or insurance company involved  
3           within the scope of the consulting work.

4           B. A copy of every consulting contract shall be retained by the consultant for  
5           not less than five years after the expiration of the consulting contract.

6           C. No licensed insurance consultant may receive any fee for consulting  
7           services, unless such compensation is based upon a prior written contract as required  
8           by this Section.

9           D. If a licensed insurance consultant has received the compensation outlined  
10          in the written consulting contract, it shall be conclusively presumed that the licensee  
11          was acting as a consultant with respect to any transactions related to the contract.

12          E. A consulting contract shall be made available to the Louisiana  
13          Department of Insurance within ten days of a written request.

14          §1808.12. Prohibited acts

15               A.(1) No person licensed and acting as an insurance consultant under a  
16               written agreement pursuant to R.S. 22:1808.11, shall sell, solicit, make an  
17               application for, procure, negotiate for, or place for others, any policies for any lines  
18               of insurance.

19               (2) No insurer or insurance producer shall pay any money or commission or  
20               brokerage, or give or allow any valuable consideration or compensation to any  
21               person or business entity duly licensed and acting as an insurance consultant under  
22               a written agreement pursuant to R.S. 22:1808.11.

23               (3) A consultant who is also licensed as an insurance producer shall not,  
24               when representing himself as an insurance consultant under a written agreement  
25               pursuant to R.S. 22:1808.11, solicit, sell, or negotiate contracts of insurance or  
26               otherwise act as an insurance producer, and shall not receive directly or indirectly  
27               from an insurance company, broker, or insurance producer any money or  
28               commission or brokerage, or give or allow any valuable consideration or  
29               compensation for the solicitation, negotiation, application, sale or placement of

1 insurance coverages which were the subject of a written consulting contract as  
2 required by R.S. 22:1808.11 under either of the following circumstances:

3 (a) During the term of the written consulting contract.

4 (b) Within twelve months after the expiration of the consulting contract, but  
5 no less than twenty-four months from the inception of the insurance contract.

6 (4) An insurance producer who has a financial or business interest or  
7 affiliation with an insurance consultant acting as a consultant under a written  
8 contract as required by R.S. 22: 1808.11, shall not solicit, negotiate or sell insurance,  
9 either directly or indirectly, with respect to the insurance risks of the insured or  
10 prospective insured which were the subject of the consulting contract under either  
11 of the following circumstances:

12 (a) During the term of the written consulting contract.

13 (b) With twelve months after the expiration of the consulting contract, but  
14 no less than twenty-four months from the inception of the insurance contract.

15 B.(1) Whoever violates this Section shall, upon conviction, be fined not less  
16 than two thousand dollars, nor more than fifty thousand dollars, or imprisoned with  
17 or without hard labor, for not more than three years, or both.

18 (2) Any conviction for violation of this Section shall constitute grounds for  
19 the immediate suspension or revocation by the commissioner of insurance of the  
20 license of such insurance consultant to sell insurance, in addition to those grounds  
21 set forth in R.S. 22:1808.8.

22 C. Nothing in this Section shall prohibit an insurance producer from  
23 receiving reimbursement of expenses or an agency fee for services provided as the  
24 producer of record as authorized pursuant to R.S. 22:855(B).

25 §1808.13. Reporting of actions

26 A. An insurance consultant shall report to the commissioner of insurance any  
27 administrative action taken against the consultant in another jurisdiction or by  
28 another governmental agency in this state within thirty days of the final disposition

1 of the matter. This report shall include a copy of the order, consent to order, or other  
2 relevant legal documents.

3 B. Within thirty days of a conviction in district court of an offense pursuant  
4 to R.S. 22:1808.8(A) (7), a consultant shall report such conviction to the  
5 commissioner and provide a copy of the bill of information or indictment.

6 C. Without in any way limiting or affecting any other civil or criminal  
7 remedies or consequences, any person who intentionally withholds or intentionally  
8 fails to timely report information as required by this Part shall be guilty of violating  
9 R.S. 22:1808.8(A)(12).

10 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

11 §4.1. Exceptions

12 \* \* \*

13 B. The legislature further recognizes that there exist exceptions, exemptions,  
14 and limitations to the laws pertaining to public records throughout the revised  
15 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
16 limitations are hereby continued in effect by incorporation into this Chapter by  
17 citation:

18 \* \* \*

19 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,  
20 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,  
21 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466,  
22 1488, 1546, 1559, 1566(D), 1644, 1656, 1723, 1796, 1801, 1808.3, 1927, 1929,  
23 1983, 1984, 2036, 2056, 2085, 2091, 2293, 2303

24 \* \* \*

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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 746 Original

2016 Regular Session

Thibaut

**Abstract:** Provides for licensing and regulation of insurance consultants by the commissioner of insurance.

Proposed law authorizes the licensing and regulation of insurance consultants by the commissioner of insurance, with an initial term of two years, followed by renewals at two year intervals.

Proposed law establishes fees for the initial license and for each renewal. Further provides for continuing education requirements and prelicensing education requirements.

Proposed law creates reciprocity with other states for non-resident insurance consultants.

Proposed law requires an insurance consultant's compensation to be set forth in a written agreement. Further prohibits an insurance consultant from receiving commissions.

Proposed law requires an applicant to pass a written exam for each line of insurance that he wishes to be licensed for. Further requires each applicant to submit a full set of fingerprints and pass a criminal background check. Further provides that the fingerprints and the results of the background check shall be confidential and not subject to the public records law.

Proposed law allows an insurance consultant to be licensed for the insurance lines of life, health and accident, variable life and variable annuity products, property, and casualty.

Proposed law authorizes civil and criminal penalties for certain conduct, including suspension or revocation of license, civil fines, criminal fines, and imprisonment.

(Amends R.S. 22:1573(A) and (C)-(E) and R.S. 44:4.1(B)(11); Adds R.S. 22:821(B)(38) and 1808.1-1808.13)