

2016 Regular Session

HOUSE BILL NO. 934

BY REPRESENTATIVE HOFFMANN

BOARDS/COMMISSIONS: Provides relative to judicial review of administrative decisions rendered by the La. State Board of Dentistry

1 AN ACT

2 To amend and reenact R.S. 37:786(D)(1) and (2) and 788(B)(1), relative to administrative
3 decisions of the Louisiana State Board of Dentistry; to provide for procedures and
4 amounts furnished as security in judicial review of board decisions; to provide
5 relative to the subpoena authority of the board; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:786(D)(1) and (2) and 788(B)(1) are hereby amended and
8 reenacted to read as follows:

9 §786. Judicial review of adjudication

10 * * *

11 D.(1) In any case appealed to the civil district court under the provisions of
12 this Section, the party seeking judicial review shall furnish security in ~~accordance~~
13 ~~with the following rules:~~ the amount of any fine set forth in the decision being
14 appealed.

15 (a) ~~For that portion of a decision issued under R.S. 37:780 pertaining to~~
16 ~~payment of a sum of money, the amount of security shall exceed by one-half the~~
17 ~~amount of the money portion of the decision.~~

18 (b) ~~In all other respects, the security shall be fixed by the court at an amount~~
19 ~~sufficient to assure satisfaction of the decision rendered by the board.~~

1 (2) Any security furnished under the provisions of this Section shall be in
2 favor of the ~~board~~ clerk of the trial court in which the proceeding was brought, and
3 shall be furnished as security for the judicial review of the complaining party in civil
4 district court ~~and any judgment by the district court against him shall be paid or~~
5 ~~satisfied from the proceeds of the sale of his property, or from the security posted~~
6 ~~under the provisions of this Section. Mortgages on immovable property are adequate~~
7 ~~security, but only where the mortgage is applied to unencumbered immovables;~~
8 ~~mortgages in other than a first position are unacceptable as security under this~~
9 ~~Section. The security furnished shall meet the requirements for bonds in judicial~~
10 ~~proceedings set forth in Code of Civil Procedure Article 5121 et seq., and shall~~
11 ~~become available to satisfy any portion of the judgment once the judgment becomes~~
12 ~~final and has not been satisfied within thirty days of becoming final.~~

* * *

14 §788. Violations

15 B.(1) ~~In addition to any other civil remedy or criminal penalty provided for~~
16 ~~in this Chapter, the~~ The board may issue a subpoena to any person or persons who
17 the board has probable cause to believe has engaged in the practice of dentistry or
18 dental hygiene without a currently valid license or permit.

* * *

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)]

HB 934 Original

2016 Regular Session

Hoffmann

Abstract: Provides relative to procedures and amounts furnished as security in judicial review of decisions rendered by the La. State Board of Dentistry.

Present law provides that in an appeal to a civil district court of an administrative decision rendered by the La. State Board of Dentistry, the party seeking judicial review shall furnish security in accordance with the following rules:

- (1) For that portion of a decision issued under present law pertaining to payment of a sum of money, the amount of security shall exceed by one-half the amount of the money portion of the decision.

- (2) In all other respects, the security shall be fixed by the court at an amount sufficient to assure satisfaction of the decision rendered by the board.

Proposed law revises present law to provide that in any such case, the party seeking judicial review shall furnish security in the amount of any fine set forth in the decision being appealed.

Present law provides the following relative to security furnished in cases of judicial review of decisions by the La. State Board of Dentistry:

- (1) Any security furnished in accordance with present law shall be in favor of the board, and shall be furnished as security for the judicial review of the complaining party in civil district court and any judgment by the district court against him shall be paid or satisfied from the proceeds of the sale of his property, or from the security posted under the provisions of present law.
- (2) Mortgages on immovable property are adequate security, but only where the mortgage is applied to unencumbered immovables; and that mortgages in other than a first position are unacceptable as security.

Proposed law revises present law relative to security furnished in cases of judicial review of decisions by the La. State Board of Dentistry to provide the following:

- (1) The security shall be in favor of the clerk of the trial court in which the proceeding was brought, and shall be furnished as security for the judicial review of the complaining party in civil district court.
- (2) The security shall meet the requirements for bonds in judicial proceedings set forth in present law, C.C.P. Art. 5121 et seq., and shall become available to satisfy any portion of the judgment once the judgment becomes final and has not been satisfied within 30 days of becoming final.

Present law authorizes the La. State Board of Dentistry to issue subpoenas to persons who the board has probable cause to believe have engaged in the practice of dentistry or dental hygiene without a currently valid license or permit. Proposed law retains present law, and deletes language providing that the board may issue such subpoenas in addition to other civil remedies and criminal penalties provided in present law.

(Amends R.S. 37:786(D)(1) and (2) and 788(B)(1))