

2015 Regular Session

SENATE BILL NO. 216

BY SENATOR MORRISH

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

INSURANCE DEPARTMENT. Provides for the reorganization of the Louisiana Department of Insurance. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 22:3, 32(C), the introductory paragraph of R.S. 22:33(A), R.S.

3 36:681(C)(1), 687, 691.1, 692, 694, and 696(A), (B)(1)(a) and (b), (C), and (D), to

4 enact R.S. 22:31(C) and (D) and R.S. 36:696(E), and to repeal R.S. 22:31(6), 32(D)

5 and (E), and R.S. 36:696(B)(1)(e), relative to the Louisiana Department of Insurance;

6 to provide for the composition of the department; to provide relative to the division

7 of minority affairs and the Advisory Committee on Equal Opportunity; to provide

8 with respect to the deputy commissioner for consumer services; to provide relative

9 to the office of health, life and annuity; to provide with respect to the deputy

10 commissioner for consumer advocacy; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:3, 32(C), and the introductory paragraph of R.S. 22:33(A) are
13 hereby amended and reenacted, and R.S. 22:31(C) and (D) are hereby enacted to read as
14 follows:

15 §3. Composition of Department of Insurance

16 The Department of Insurance shall be comprised of the office of the
17 commissioner, the office of management and finance, the office of property and

1 casualty, the office of licensing ~~and compliance~~, the office of financial solvency, the
 2 office of consumer advocacy, the office of health ~~insurance~~, **life and annuity, the**
 3 **office of consumer services**, the division of insurance fraud, the division of legal
 4 services, the division of public affairs, ~~the division of minority affairs~~ and any other
 5 office or division that may be included by the Executive Reorganization Act or other
 6 law. Each office or division shall be administered as prescribed by Titles 36 and 39
 7 of the Louisiana Revised Statutes of 1950.

8 * * *

9 §31. Division of ~~minority affairs~~ **diversity and opportunity**

10 * * *

11 **C. The division of diversity and opportunity shall review all complaints**
 12 **alleging a violation of the provisions of this Subpart. Upon receipt of a**
 13 **complaint, the division shall notify an insurer against whom the complaint was**
 14 **filed of the nature of the complaint and provide the insurer with the opportunity**
 15 **to make a written explanation. As a part of the response, the insurer may**
 16 **submit to the division any affirmative action plan it may have in effect. The**
 17 **division shall consider any affirmative action plan and any other pertinent**
 18 **information submitted to it in determining whether or not the insurer has**
 19 **engaged in a pattern or practice of employment discrimination prohibited by**
 20 **Part IV of Chapter 3-A of Title 23, R.S. 23:331 et seq.**

21 **D. The division of diversity and opportunity shall report apparent**
 22 **violations of this Subpart to the commissioner who may commence enforcement**
 23 **proceedings in accordance with R.S. 22:33.**

24 §32. Advisory Committee on Equal Opportunity

25 * * *

26 ~~C. The committee shall review all complaints alleging a violation of the~~
 27 ~~provisions of this Subpart. Upon receipt of a complaint, the committee shall notify~~
 28 ~~the insurer against whom the complaint was filed of the nature of the complaint and~~
 29 ~~provide the insurer with an opportunity to make a written explanation. As a part of~~

1 ~~the response, the insurer may submit to the committee any affirmative action plan~~
 2 ~~it may have in effect. The committee shall consider any affirmative action plan~~
 3 ~~submitted to it, along with any other pertinent information submitted to it, in~~
 4 ~~determining whether the insurer has engaged in a pattern or practice of employment~~
 5 ~~discrimination prohibited by Part IV of Chapter 3-A of Title 23, R.S. 23:332 et seq.~~

6 E: Nothing contained in this Section or in R.S. 22:31 shall be construed to
 7 expand the coverage of Part IV of Chapter 3-A of Title 23, R.S. 23:332 et seq. for
 8 purposes of the sanctions authorized against insurers under R.S. 22:33.

9 §33. Sanctions

10 A. Whenever the commissioner of insurance receives notification of an
 11 apparent violation from the ~~advisory committee~~ **division of diversity and**
 12 **opportunity**, and determines, after notice and opportunity for a hearing in
 13 accordance with the Administrative Procedure Act, that an insurer has engaged in a
 14 pattern or practice of employment discrimination prohibited by Part IV of Chapter
 15 3-A of Title 23, R.S. ~~23:332~~ **23:331** et seq., he may issue an order requiring the
 16 insurer to cease and desist engaging in such unlawful act or practice. If the insurer
 17 does not comply with the cease and desist order, the commissioner may then:

18 * * *

19 Section 2. R.S. 36:681(C)(1), 687, 691.1, 692, 694, 696(A), (B)(1)(a) and (b), (C),
 20 and (D) are hereby amended and reenacted and R.S. 36:696(E) is hereby enacted to read as
 21 follows:

22 §681. Department of Insurance; creation; domicile; purposes and functions

23 * * *

24 C.(1) The officers of the department shall be the commissioner of insurance,
 25 the chief deputy commissioner, the deputy commissioner for management and
 26 finance, the deputy commissioner for property and casualty, the deputy
 27 commissioner for insurance fraud, the deputy commissioner for licensing ~~and~~
 28 **compliance**, the deputy commissioner for financial solvency, the deputy
 29 commissioner for health ~~insurance~~, **life and annuity**, the deputy commissioner for

1 public affairs, the deputy commissioner for ~~minority affairs~~ **consumer services**, the
2 deputy commissioner for consumer advocacy **and diversity, the assistant**
3 **commissioner of diversity and opportunity**, and the executive counsel.

4 * * *

5 §687. Deputy commissioner for ~~minority affairs~~ **consumer services**; functions;
6 division of ~~minority affairs~~ **consumer services**

7 ~~A. There shall be a deputy commissioner for minority affairs of the~~
8 ~~Department of Insurance who shall be appointed by the commissioner of insurance~~
9 ~~and who shall serve at the pleasure of the commissioner at a salary fixed by the~~
10 ~~commissioner, which salary shall not exceed the amount approved for such position~~
11 ~~by the legislature while in session. Each appointment by the commissioner shall be~~
12 ~~submitted to the Senate for confirmation. The deputy commissioner for minority~~
13 ~~affairs shall be directly responsible to and shall perform his functions under the~~
14 ~~supervision and control of the commissioner of insurance.~~

15 ~~B. The deputy commissioner for minority affairs shall direct and be~~
16 ~~responsible for the functions of the division of minority affairs within the~~
17 ~~Department of Insurance. In such capacity, he shall be responsible for assisting in~~
18 ~~coordinating the activities of the Advisory Committee on Equal Opportunity,~~
19 ~~establishing educational and information services regarding opportunities available~~
20 ~~in the insurance industry and the skills, training, and education necessary to prepare~~
21 ~~for such opportunities, assisting minority groups in obtaining employment, agent's~~
22 ~~or agency contracts and contracts for services with insurance companies~~ **There is**
23 **hereby created a division of consumer services under the direction of the deputy**
24 **commissioner of consumer services. The duties and functions of the division**
25 **and the deputy commissioner shall be the receipt and processing of consumer**
26 **complaints, market conduct analysis and examination**, and such additional duties
27 and functions as are assigned by the commissioner.

28 * * *

29 §691.1. Division of insurance fraud

1 additional duties and functions as assigned by the commissioner.

2 * * *

3 §696. Deputy commissioner for consumer advocacy **and diversity**; functions; office
4 of consumer advocacy **and diversity**

5 A. There is hereby created an office of consumer advocacy **and diversity** in
6 the Department of Insurance. This office shall be under the direction of the deputy
7 commissioner for consumer advocacy **and diversity**, who shall be appointed by the
8 commissioner of insurance with advice and concurrence of the Senate and House
9 committees on insurance and who shall serve at the pleasure of the commissioner at
10 a salary fixed by the commissioner, ~~which salary and benefits shall be the same as the~~
11 ~~majority of the deputy commissioners of the Department of Insurance. The~~
12 ~~commissioner of insurance shall appoint the deputy commissioner of consumer~~
13 ~~advocacy by October 1, 2007~~ **that shall not exceed the amount approved for the**
14 **position by the legislature**. The office of consumer advocacy **and diversity** shall
15 be staffed with no fewer than three full-time professional level civil service
16 employees to manage complaints, inquiries, and outreach. The office of consumer
17 advocacy **and diversity** shall be staffed with no fewer than two full-time journeyman
18 level civil service employees to assist the professional level employees. The office
19 of consumer advocacy **and diversity** shall employ an administrative assistant
20 designated by the deputy commissioner who shall be responsible for coordinating
21 and directing travel, scheduling, office management, and any other duties assigned
22 by the deputy commissioner. The office of consumer advocacy **and diversity** shall
23 be housed within the Louisiana Department of Insurance and, as funding is available,
24 satellite offices may be opened as outlined in the rules and regulations to be
25 implemented by the commissioner of insurance pursuant to this Section. The deputy
26 commissioner for consumer advocacy **and diversity** shall be directly responsible to
27 and shall perform his functions under the supervision and control of the
28 commissioner of insurance.

29 B.(1) The office of consumer advocacy **and diversity**, through the deputy

1 commissioner of consumer advocacy **and diversity**, shall perform the following
2 duties and functions concerning products or services regulated by the Department of
3 Insurance:

4 (a) Receive inquiries and complaints from consumers.

5 (b) Prepare and disseminate such information as the ~~department~~
6 **commissioner** deems appropriate to inform or assist consumers.

7 * * *

8 C. The deputy commissioner for consumer advocacy **and diversity** may be
9 terminated without cause shown. A written report of termination shall be compiled
10 by the commissioner of insurance and delivered to the clerk of the House of
11 Representatives and the secretary of the Senate at least ten days before the
12 termination and shall be disclosed to the members of the respective houses of the
13 legislature upon request.

14 D. **The deputy commissioner for consumer advocacy and diversity shall**
15 **be responsible for the functions of the division of minority affairs within the**
16 **department. There shall be an assistant commissioner of diversity and**
17 **opportunity who shall be appointed by the commissioner. The assistant**
18 **commissioner of diversity and opportunity shall serve at the pleasure of the**
19 **commissioner and at a salary fixed by the commissioner, which salary shall not**
20 **exceed the amount approved for the position by the legislature.**

21 **E.** The commissioner of insurance may adopt rules and regulations necessary
22 to implement the provisions of this Section.

23 Section 3. R.S. 22:31(6), 32(D) and (E) and R.S. 36:696(B)(1)(e) are hereby
24 repealed.

25 Section 4. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 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 216 Reengrossed

2015 Regular Session

Morrish

Present law requires the Dept. of Ins. to be comprised of the office of the commissioner, the office of management and finance, the office of property and casualty, the office of licensing and compliance, the office of financial solvency, the office of consumer advocacy, the office of health insurance, the division of insurance fraud, the division of legal services, the division of public affairs, the division of minority affairs, and any other office or division that may be included in present law.

Proposed law changes the office of health insurance to the office of health, life, and annuity. Adds the office of consumer services and removes the division of minority affairs as part of the composition of the department.

Present law provides for the division of minority affairs with the functions and duties which include the requirement to develop a pilot program that seeks to address the needs and concerns of minority and women producers in the state.

Proposed law deletes the pilot program provisions.

Proposed law requires the division of diversity and opportunity to review all complaints alleging a violation of the provisions of present law with regard to equal opportunity in insurance. Further requires the division of diversity and opportunity to notify an insurer against whom a complaint was filed of the nature of the complaint and provide the insurer with the opportunity to make a written explanation.

Proposed law requires the division of diversity and opportunity to report apparent violations of present law to the commissioner who may commence enforcement proceedings in accordance with present law.

Present law creates an advisory committee on equal opportunity within the department with the function to review all complaints alleging a violation of the provisions of present law with regard to equal opportunity in insurance.

Proposed law removes this review function.

Present law creates a deputy commissioner of minority affairs appointed by the commissioner who serves at the pleasure of the commissioner at a salary fixed by the commissioner and requires Senate confirmation of the appointment.

Proposed law deletes these provisions and creates the division of consumer services under the direction of the deputy commissioner of consumer services. Provides that the duties and functions of the division and the deputy commissioner shall be responsible for the receipt and processing of consumer complaints, market conduct analysis and examination, and such additional duties and functions as are assigned by the commissioner.

Proposed law creates the office of health, life and annuity with the responsibility for the development and administration of health insurance pilot programs, research and development of rules and regulations to implement health insurance reform legislation, research and development of health insurance reform measures that broaden the availability of health insurance coverage in the state, liaison activities for the Dept. of Ins. with other state and national agencies for policy on health insurance, preparation of proposed health insurance reform legislation by the department; general research and implementation issues concerning health insurance policy, approval of life and annuity form filings, and additional

duties and functions as assigned by the commissioner.

Present law provides for the office of consumer advocacy in the department which is under the direction of the deputy commissioner for consumer advocacy who is appointed by the commissioner with advice and concurrence of the Senate and House committees on insurance.

Present law requires the salary and benefits of the deputy commissioner for consumer advocacy to be the same as the majority of the deputy commissioners of the department.

Proposed law requires the salary of the deputy commissioner for consumer advocacy and diversity not to exceed the amount approved for the position by the legislature.

Present law permits the deputy commissioner for consumer advocacy to be terminated without cause shown. Further requires a written report of termination to be compiled by the commissioner and delivered to the clerk of the House of Representatives and the secretary of the Senate at least ten days before the termination.

Proposed law requires the deputy commissioner for consumer advocacy and diversity to be responsible for the functions of the division of minority affairs within the department. Further requires an assistant commissioner of diversity and opportunity to be appointed by the commissioner who shall serve at the pleasure of and at a salary fixed by the commissioner, which salary shall not exceed the amount approved by the legislature.

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

(Amends R.S. 22:3, 32(C), 33(A)(intro para), R.S. 36:681(C)(1), 687, 691.1, 692, 694, 696(A), (B)(1)(a) and (b), (C) and (D); adds R.S. 22:31(C) and (D) and R.S. 36:696(E); repeals R.S. 22:31(6), 32(D) and (E), and R.S. 36:696(B)(1)(e))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Changes the division of minority affairs to the division of diversity and opportunity.
2. Changes the office of consumer advocacy to the office of consumer advocacy and diversity.
3. Creates the position of an assistant commissioner of diversity and opportunity.
4. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.