

Regular Session, 2009

SENATE BILL NO. 177

BY SENATOR MARTINY

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

INSURANCE DEPARTMENT. Provides for hearing held for and by the Department of Insurance. (8/15/09)

1 AN ACT

2 To amend and reenact R.S. 22:14(B), 16, 18(A), 33(A)(introductory paragraph), 35(C),

3 72(B), 88(E), (I), and (O), 236.4(C) and (E), 255, 259, 264, 267(D), 310, 337(B),

4 369, 371, 389, 391, 457(C), 584(D)(1)(b), 588(A)(1), 590(B), 595, 613(A)(3), (C)(2),

5 and (D)(3)(b), 614(A)(9) and (C)(2), 615(A)(5), 616(A)(3), 634(A)(3), (C)(2), and

6 (D)(2), 635(A)(3), (7), and (9) and (C)(2), 636(A)(3) and (5), 637(A)(3),

7 638(introductory paragraph), 656(B), 661, 674(A)(3) and (B),

8 694(D)(1)(introductory paragraph), 709(A), (B), and (C), 731(D), 732(A) and (C),

9 821(G), 833(C)(3), 855(E)(1), 972(A) and (B), 974, 1071(C)(3)(d), 1141,

10 1143(A)(introductory paragraph) and (B)(introductory paragraph), 1211(B),

11 1451(E), 1453(A)(1), 1465(A)(3)(a), (B), and (C), 1466(A), (B), (D), and (E),

12 1469(A), 1470(B), 1471(C), 1529(A), 1546(B)(1)(d), 1547(G), 1549(G), 1550(G),

13 1554(B), (C), and (D), 1559(G), 1571(H), 1627(A)(introductory paragraph),

14 1671(C), 1672(B) and (C), 1699(B), 1700(C), (D), and (E), 1731(A)(introductory

15 paragraph), 1793(C), 1837(A)(introductory paragraph) and (B)(introductory

16 paragraph), 1860(A)(introductory paragraph) and (B)(introductory paragraph), 1968,

17 1969, 1970, 1995(B), 2060(B)(2), 2090(B), 2147(A)(2), 2191, 2193, 2194, 2198,

1 2204, 2205, 2206, 2208, 2242(C)(3), Article VIII(4)(a) of R.S. 22:2381, and R.S.
 2 22:2401, to enact R.S. 22:33(D), 588(C), 694(D)(4), 709(E), 731(F), 833(D),
 3 1143(D), 1211(C), 1453(D), 1471(E), 1472(C), 1529(C), 1549(K), 1550(K),
 4 1837(C), 1860(C), 2060(C), and 2422(C), and to repeal R.S. 22:2192, 2196, and
 5 2199 through 2203, relative to the Department of Insurance; to provide with respect
 6 to administrative hearings for that department held by the Division of Administrative
 7 Law; to provide for public hearings held by that department; to make certain
 8 technical changes; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:14(B), 16, 18(A), 33(A)(introductory paragraph), 35(C), 72(B),
 11 88(E), (I), and (O), 236.4(C) and (E), 255, 259, 264, 267(D), 310, 337(B), 369, 371, 389,
 12 391, 457(C), 584(D)(1)(b), 588(A)(1), 590(B), 595, 613(A)(3), (C)(2), and (D)(3)(b),
 13 614(A)(9) and (C)(2), 615(A)(5), 616(A)(3), 634(A)(3), (C)(2), and (D)(2), 635(A)(3), (7)
 14 and (9) and (C)(2), 636(A)(3) and (5), 637(A)(3), 638(introductory paragraph), 656(B), 661,
 15 674(A)(3) and (B), 694(D)(1)(introductory paragraph), 709(A), (B), and (C), 731(D), 732(A)
 16 and (C), 821(G), 833(C)(3), 855(E)(1), 972(A) and (B), 974, 1071(C)(3)(d), 1141,
 17 1143(A)(introductory paragraph) and (B)(introductory paragraph), 1211(B), 1451(E),
 18 1453(A)(1), 1465(A)(3)(a), (B), and (C), 1466(A), (B), (D), and (E), 1469(A), 1470(B),
 19 1471(C), 1529(A), 1546(B)(1)(d), 1547(G), 1549(G), 1550(G), 1554(B), (C), and (D),
 20 1559(G), 1571(H), 1627(A)(introductory paragraph), 1671(C), 1672(B) and (C), 1699(B),
 21 1700(C), (D), and (E), 1731(A)(introductory paragraph), 1793(C), 1837(A)(introductory
 22 paragraph) and (B)(introductory paragraph), 1860(A)(introductory paragraph) and
 23 (B)(introductory paragraph), 1968, 1969, 1970, 1995(B), 2060(B)(2), 2090(B), 2147(A)(2),
 24 2191, 2193, 2194, 2198, 2204, 2205, 2206, 2208, 2242(C)(3), Article VIII(4)(a) of R.S.
 25 22:2381, and R.S. 22:2401 are hereby amended and reenacted and R.S. 22:33(D), 588(C),
 26 694(D)(4), 709(E), 731(F), 833(D), 1143(D), 1211(C), 1453(D), 1471(E), 1472(C), 1529(C),
 27 1549(K), 1550(K), 1837(C), 1860(C), 2060(C), and 2422(C) are hereby enacted to read as
 28 follows:

29 §14. Violations reported by employees; retaliation by insurer prohibited

* * *

1

2 B. Whenever the commissioner of insurance, a state agency, or law

3 enforcement agency conducts an investigation based upon a written sworn report or

4 with the participation of an employee as provided in this Section, it may not disclose

5 the identity of the employee without the employee's consent. If it is determined that

6 such disclosure is required for an administrative proceeding or criminal prosecution

7 based upon the findings of the investigation, then the person or entity conducting the

8 investigation shall notify the employee prior to disclosure of the employee's identity.

9 Any ~~proceeding or hearing by the commissioner of insurance~~ under this Section shall

10 be conducted in accordance with **Chapter 12 of this Title**, R.S. 22:2191 et seq.

* * *

11

12 §16. Failure to comply with written orders or directives; penalties

13 If any insurance company or rating organization fails to comply with a

14 written directive or order issued by the commissioner of insurance pursuant to this

15 Subpart within thirty days of the issuance thereof, the commissioner may levy and

16 receive a fine of up to twenty-five thousand dollars. ~~The~~ **If a hearing has been**

17 **requested by the insurance company or rating organization, the** penalty shall not

18 be imposed until such time ~~that~~ **as** the commissioner **Division of Administrative**

19 **Law** makes a finding **and issues an order** that the penalty is warranted in a proper

20 hearing, held in the manner provided in Chapter 12 of this Title, **R.S. 22:2191 et seq.**

* * *

21

22 §18. Suspension or revocation of insurers' licenses; fines

23 A. The commissioner of insurance may, **as a penalty, in accordance with**

24 **R.S. 49:961**, refuse to renew, or may suspend, or revoke the certificate of authority

25 of any insurer violating any of the provisions of this Code, or in lieu of suspension

26 or revocation of a license duly issued, the commissioner may levy a fine not to

27 exceed one thousand dollars for each violation per insurer, up to one hundred

28 thousand dollars aggregate for all violations in a calendar year per insurer, when such

29 violations, ~~in his opinion, after a proper hearing,~~ warrant the refusal, suspension, or

1 revocation of such certificate, or the imposition of the fine. ~~The commissioner of~~
 2 ~~insurance is authorized to withhold fines imposed under this Section. Such hearing~~
 3 ~~shall be~~ **An aggrieved party affected by the commissioner's decision, act, or**
 4 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
 5 **22:2191 et seq. If the insurer has demanded a timely hearing, the penalty or fine**
 6 **ordered by the commissioner shall not be imposed until such time as the**
 7 **Division of Administrative Law makes a finding that the penalty or fine is**
 8 **warranted in a proper hearing,** held in the manner provided in Chapter 12 of this
 9 Title.

10 * * *

11 §33. Sanctions

12 A. Whenever the commissioner of insurance receives notification of an
 13 apparent violation from the advisory committee, and determines, ~~after notice and~~
 14 ~~opportunity for a hearing in accordance with the Administrative Procedure Act,~~ that
 15 an insurer has engaged in a pattern or practice of employment discrimination
 16 prohibited by R.S. 23:1006, he may issue an order requiring the insurer to cease and
 17 desist engaging in such unlawful act or practice. If the insurer does not comply with
 18 the cease and desist order, the commissioner may then:

19 * * *

20 **D. An aggrieved party affected by the commissioner's decision, act, or**
 21 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
 22 **22:2191 et seq.**

23 * * *

24 §35. Discrimination; failure to provide coverage; penalties; right of action

25 * * *

26 C. The commissioner of insurance shall promulgate rules and regulations
 27 necessary for the enforcement of this Section. The rules and regulations shall, at a
 28 minimum, provide a mechanism in which complaints concerning alleged
 29 discriminatory practices by insurers can be received and investigated. The rules and

1 regulations shall also contain a provision allowing for an administrative hearing in
2 accordance with the Administrative Procedure Act, **R.S. 49:950 et seq.**, prior to the
3 imposition of the penalty outlined in Subsection B of this Section.

4 * * *

5 §72. Stock and mutual conversions

6 * * *

7 B. The commissioner of insurance shall not approve any such conversion
8 unless in his opinion after a full investigation, ~~and hearing if he deems it necessary,~~
9 the best interests of the policyholders of any such insurer will be served.

10 * * *

11 §88. Sales of stock

12 All sales of stock as defined in this Section shall be made in accordance with
13 the regulations:

14 * * *

15 E. ~~(1)~~ **(1)** Securities as defined in this ~~section~~ **Section** shall be registered by the
16 filing of the issuer, or of any dealer registered with the office of the commissioner
17 of insurance, in the office of the commissioner with respect to such securities of the
18 following:

19 ~~(1)~~ **(a)** Name of issuer, location, and, if incorporated, place of incorporation.

20 ~~(2)~~ **(b)** A brief description of the security, including amount of the issue.

21 ~~(3)~~ **(c)** Amount of securities to be offered in the state.

22 ~~(4)~~ **(d)** The par value, the price at which the securities are to be offered for
23 sale to the public, and a statement as to how the proceeds are to be used, including
24 commissions to be paid, which commissions, however, shall in no event exceed
25 fifteen percent.

26 ~~(5)~~ **(e)** A copy of the circular or prospectus to be used by the issuer or dealer
27 for the public offering.

28 ~~(6)~~ **(f)** Any other information or documents required by the commissioner of
29 insurance.

1 (2) Every statement required to be filed with the commissioner under any of
2 the provisions of this ~~section~~ **Section** shall be transmitted by United States mail, and
3 the commissioner shall never receive nor shall he be authorized to receive or accept
4 for filing any statement or documents transmitted to him by any mode other than by
5 United States mail.

6 (3) The filing of such statement and documents in the office of the
7 commissioner, and the payment of the fee ~~hereinafter~~ provided; **for in this**
8 **Subsection** shall, after being authorized by the commissioner, constitute the
9 registration of such securities. Upon such registration, such securities may be sold
10 in this state by any registered dealer, subject, however, to the further order of the
11 commissioner as ~~hereinafter~~ provided: **in this Subsection**. Every registration under
12 this ~~section~~ **Section** for an insurance company on primary issues of stock shall expire
13 in accordance with the statutory provisions of R.S. 22:85. Every registration under
14 this section for an investment or holding company, or on issued and outstanding
15 shares of stock of an insurance company, shall expire on December thirty-first of
16 each year, but new registrations for the succeeding period or succeeding year, as the
17 case may be, shall be issued upon written application and upon payment of the fee
18 as ~~hereinafter~~ provided: **in this Subsection**.

19 (4) If, at any time in the opinion of the commissioner, the information
20 contained in the statement, circular, or prospectus filed is, or has become,
21 misleading, incorrect, inadequate, or incomplete, or the sale or offering for sale of
22 the security as defined in this ~~section~~ **Section** may work or tend to work a fraud, the
23 commissioner may require from the person filing such statement such further
24 information as may in his judgment be necessary to establish the classification of
25 such security as claimed in said statement, or to enable the commissioner to ascertain
26 whether other steps should be taken and the registration rejected or revoked on any
27 ground ~~hereinafter~~ specified; **in Subsection F of this Section** and the commissioner
28 may refuse to register or suspend the right to sell such security pending further
29 investigation by entering an order specifying the grounds for such action, and by

1 notifying by mail, or personally, or by telephone confirmed in writing, or by
2 telegraph, the person filing such a statement and documents, and every registered
3 dealer who shall have notified the commissioner of an intention to sell such security.
4 The refusal to furnish information required by the commissioner within a reasonable
5 time to be fixed by the commissioner may be a proper ground for the entry of such
6 order of suspension. The commissioner shall notify every registered dealer of such
7 order and upon the entry of any such order of suspension no further sales of such
8 security shall be made until the further order of the commissioner.

9 (5) In the event of the entry of such order of rejection or suspension, ~~the~~
10 ~~commissioner shall, upon request, give~~ **the aggrieved party may demand** a prompt
11 hearing in accordance with Chapter 12 of this Code ~~to the parties interested.~~ **Title,**
12 **R.S. 22:2191 et seq.** If no hearing is **timely** requested ~~within a period of twenty days~~
13 ~~from the entry of such order, or, if upon such hearing the commissioner shall~~
14 ~~determine that any such security is not entitled to registration under this section, or~~
15 ~~that the sale thereof should be revoked on any ground hereinafter specified, he~~ **the**
16 **commissioner** shall enter a final order prohibiting sales of such security, with his
17 findings with respect thereto. Until the entry of such final order, the rejection or
18 suspension of the right to sell, though binding upon the persons notified thereof, shall
19 be deemed confidential, and shall not be published, unless it shall appear that the
20 order of suspension has been violated after notice. ~~Appeals from such final order~~
21 ~~may be taken as hereinafter provided.~~ If, however, upon such **a** hearing the
22 commissioner **Division of Administrative Law** shall find that the security being
23 offered for sale will neither be fraudulent nor result in fraud, ~~he~~ **the commissioner**
24 shall forthwith enter an order revoking such order of suspension and such security
25 shall be restored to its status as a security registered under this section **Section** as of
26 the date of such order of suspension.

27 (6) At the time of filing the statement and documents ~~hereinabove~~
28 enumerated; **in this Subsection** and upon re-registration, the applicant shall pay to
29 the commissioner a fee of one-twentieth of one ~~per centum~~ **percent** of the aggregate

1 price of such securities to be sold in this state, for which the applicant is seeking
 2 registration, but in no case shall such fee be less than twenty-five dollars or more
 3 than two hundred dollars. The commissioner of insurance is authorized to withhold
 4 the funds collected under this ~~section~~ **Section** to defray the expenses actually and
 5 necessarily incurred by him for salaries and expenses in carrying out the purposes
 6 of this ~~section~~. **Section.**

7 * * *

8 I. Revocation of dealers' and salesmen's registration.

9 (1) Registration under Subsection H of this Section may be refused or any
 10 registration granted may be revoked by the commissioner if after a reasonable notice
 11 and a hearing the commissioner determines that such applicant or registrant so
 12 registered **has committed any of the following acts:**

13 ~~(1)~~ (a) Has violated any provision of this Section or any regulation made
 14 hereunder, ~~or~~ **pursuant to this Section.**

15 ~~(2)~~ (b) Has made a material false statement in the application for
 16 registration, ~~or~~ .

17 ~~(3)~~ (c) Has been guilty of a fraudulent act in connection with any sale of
 18 securities as defined in this Section, or has been or is engaged or is about to engage
 19 in making fictitious or pretended sales or purchases of any such securities or has
 20 been or is engaged or is about to engage in any practice or sale of such securities
 21 which is fraudulent or in violation of the law, ~~or~~ .

22 ~~(4)~~ (d) Has demonstrated his unworthiness to transact the business of dealer
 23 or salesman.

24 (2) In cases of charges against a salesman, notice thereof shall also be given
 25 the dealer employing such salesman.

26 ~~Pending the hearing the commissioner shall have the power to order the~~
 27 ~~suspension of such dealer's or salesman's registration, provided such order shall state~~
 28 ~~the cause for such suspension, and provided further, that such hearing shall be held~~
 29 ~~within ten days from the date of such suspension. Failure of the commissioner to~~

1 ~~hold such a hearing within such time shall constitute complete restoration of the~~
2 ~~registration of the dealer or salesman involved.~~

3 **(3) The aggrieved party whose registration is refused or revoked may**
4 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
5 **seq. Notwithstanding any law to the contrary, if a hearing is timely requested**
6 **by the aggrieved party, the commissioner's order or act shall be stayed until the**
7 **decision of the Division of Administrative Law is issued. The commissioner may**
8 **seek an expedited hearing before the Division of Administrative Law to suspend**
9 **the registration, pending the outcome of the main hearing.**

10 **(4) Until the entry of a final order the by the Division of Administrative**
11 **Law, any** suspension of such dealer's registration, though binding upon the persons
12 notified thereof, shall be deemed confidential, and shall not be published unless it
13 shall appear that the order of suspension has been violated after notice.

14 **(5) In the event the commissioner determines to refuse or to revoke a**
15 registration as ~~hereinabove~~ provided; **in this Subsection,** he shall enter a final order
16 herein with his findings on the register of dealers and salesmen; and suspension or
17 revocation of the registration of a dealer shall also suspend or revoke the registration
18 of all his salesmen.

19 **(6) It shall be sufficient cause for refusal or cancellation of registration in**
20 case of a partnership or corporation or any unincorporated association, if any
21 member of a partnership or any officer or director of the corporation or association
22 has been guilty of any act or omission which would be cause for refusing or revoking
23 the registration of an individual dealer or salesman.

24 * * *

25 O. Appeals. An appeal **from the Division of Administrative Law** may be
26 taken by any person interested ~~from any final order of the commissioner to the~~
27 ~~district court of the parish of East Baton Rouge by filing a petition therein against the~~
28 ~~commissioner, officially as defendant, within twenty days after notice of the entry~~
29 ~~of such order and stating in said petition the grounds upon which a reversal of such~~

1 §236.4. Approval by commissioner after public hearing

2 * * *

3 C. Subject to the review and appeal process under Subsection E of this
4 Section, the commissioner's public hearing shall be the exclusive hearing with
5 respect to the plan of reorganization, ~~and shall be held pursuant to the provisions of~~
6 ~~Chapter 12 of this Title, R.S. 22:2191 et seq., except as otherwise provided in this~~
7 ~~Section, and within ninety days after the plan of reorganization has been filed with~~
8 ~~the commissioner.~~ Not less than thirty days notice of such public hearing shall be
9 provided by the reorganizing mutual to qualified voters and to such additional
10 persons and in such manner as may be specified by the commissioner. **The**
11 **commissioner may promulgate procedures, rules, and regulations for the**
12 **conduct of the public hearing.**

13 * * *

14 E.~~(1)~~ Except as otherwise provided in this Section, the procedures and
15 requirements for the order and any appeal thereof shall be as set forth in Chapter 12
16 of this Title and, to the extent not specified therein, as set forth in Chapter 13 of Title
17 ~~49 of the Louisiana Revised Statutes of 1950.~~ **An aggrieved party may appeal the**
18 **commissioner's final order to the district court of East Baton Rouge Parish**
19 **within thirty days of the order. The aggrieved party may also apply for a stay**
20 **of the commissioner's order.**

21 ~~(1)~~ **(2)** The district court reviewing an order of the commissioner shall
22 consider only the certified administrative record and the issues raised before the
23 commissioner. The district court reviewing an order of the commissioner shall not
24 modify or set aside the order unless the court finds: (a) error to the prejudice of the
25 appellant's substantial rights arising from the commissioner's application of the law
26 so grossly as necessarily to imply bad faith; (b) the commissioner's order or decision
27 was procured by fraud; (c) the commissioner acted outside of the statutory authority
28 of the Department of Insurance; or (d) the commissioner's action was arbitrary and
29 capricious. Any appeal of the district court's review of the commissioner's order

1 shall be taken within thirty days of the judgment of the district court; if not so taken,
 2 the right to have an appellate court review or restrain action under the
 3 commissioner's order or decision shall be preempted and shall forever expire.
 4 Collateral attacks on an order of the commissioner are impermissible and shall be
 5 dismissed by the reviewing court.

6 ~~(2)~~ **(3)** In any action challenging the validity of or arising out of any action
 7 taken or proposed to be taken under this Subpart, the reorganizing mutual or
 8 reorganized company shall be entitled at any stage of the proceedings before final
 9 judgment to petition the court to require the plaintiff or plaintiffs to give security for
 10 the reasonable costs, including attorney fees, which may be incurred by the
 11 reorganizing mutual or reorganized company, to which security the reorganizing
 12 mutual or reorganized company shall have recourse in such amount as the court
 13 having jurisdiction of such action shall determine upon termination of such action.
 14 The amount of security may thereafter from time to time be increased or decreased
 15 in the discretion of the court having jurisdiction of such action upon a showing that
 16 the security provided has or may become inadequate or excessive. If the court
 17 renders judgment in favor of the reorganizing mutual or reorganized company, the
 18 court may in its discretion award attorney fees and costs to such prevailing party.

19 * * *

20 §255. Regulation of ~~agents~~ **producers**

21 The commissioner may, after notice and **public** hearing, promulgate such
 22 reasonable rules and regulations as are necessary to provide for the licensing of
 23 ~~agents.~~ **agents.** ~~An agent~~ **A producer** means a person licensed as a life and health
 24 insurance ~~agent~~ **producer** in the state of Louisiana who is appointed or employed by
 25 a health maintenance organization to engage in solicitation of membership in such
 26 organization. It shall not include a person enrolling members on behalf of an
 27 employer, union, or other organization to whom a master group contract has been
 28 issued.

29 * * *

1 §259. Administrative procedures

2 ~~A. When the commissioner has cause to believe that grounds for the denial,~~
3 ~~suspension, or revocation of an application for a certificate of authority exist, in~~
4 ~~accordance with R.S. 49:961, he shall issue an order denying, suspending, or~~
5 ~~revoking the application and shall notify the health maintenance organization in~~
6 ~~writing specifically stating the grounds for denial, suspension, or revocation, and~~
7 ~~fixing a time of at least thirty days thereafter for a hearing on the matter. An~~
8 ~~aggrieved party affected by the commissioner's decision, act, or order may~~
9 ~~demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et~~
10 ~~seq.~~

11 ~~B. After such hearing, or upon the failure of the health maintenance~~
12 ~~organization to appear at such hearing, the commissioner shall take action as he~~
13 ~~deems advisable and shall issue written findings which shall be sent by certified mail~~
14 ~~to the health maintenance organization. The action of the commissioner shall be~~
15 ~~subject to judicial review by the Nineteenth Judicial District Court, which court shall~~
16 ~~have jurisdiction over any and all legal proceedings arising under this Subpart. The~~
17 ~~court may, in disposing of any issue before it, modify, affirm, or reverse the order~~
18 ~~of the commissioner in whole or in part.~~

19 ~~C. The provisions of the Administrative Procedure Act shall apply to hearings~~
20 ~~and proceedings under this Section to the extent they are not in conflict with~~
21 ~~Subsection A of this Section.~~

22 * * *

23 §264. Restriction on alienations or transfers of certificate of authority

24 A certificate of authority shall not be disposed of, sold, transferred, or utilized
25 by any person other than the applicant except as authorized by the commissioner, in
26 a proceeding for such purpose. ~~The provisions of the Administrative Procedure Act~~
27 ~~shall apply to proceedings under this Section. An aggrieved party affected by the~~
28 ~~commissioner's decision, act, or order may demand a hearing in accordance~~
29 ~~with Chapter 12 of this Title, R.S. 22:2191 et seq.~~

* * *

§267. Enrollee grievance procedure

* * *

D. The commissioner, in compliance with the Louisiana Administrative Procedure Act, **R.S. 49:950 et seq.**, shall be authorized to issue such rules, regulations, and orders as shall be necessary to implement procedures that assure that plan members and participating providers have the opportunity for the appropriate resolution of their grievances. Accreditation by a nationally recognized accrediting body or entity recognized by the commissioner shall be evidence of meeting the requirements of this Section.

* * *

§310. Injunction; liquidation; receivership of domestic society

A.(1) The commissioner of insurance shall notify a domestic society in writing of a deficiency and of the need to correct the deficiency when the society has done one of the following:

- (a) Exceeded its powers.
- (b) Failed to comply with any provision of this Subpart.
- (c) Failed to fulfill its contracts in good faith.
- (d) Failed to maintain its membership of four hundred or more after an existence of one year or more.
- (e) Conducted business fraudulently or in a manner hazardous to its members, creditors, the public, or the business.

(2) After such notice, the society shall have a thirty day period in which to comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of such findings of noncompliance and require the society to show cause **at a hearing conducted in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.** why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action should not be commenced against the society under R.S. 22:73 and 96,

1 Subpart H of Part III of **this** Chapter, ~~2~~ **R.S. 22:791 et seq.**, and Chapter 9 of this
2 Title: **R.S. 22:2001 et seq.**

3 ~~B. If on such date the society does not present good and sufficient reasons~~
4 ~~why it should not be so enjoined or why such action should not be commenced, the~~
5 ~~commissioner of insurance may proceed in accordance with R.S. 22:73 and 96,~~
6 ~~Subpart H of Part III of Chapter 2 and Chapter 9 of this Title for the rehabilitation~~
7 ~~or liquidation of such society.~~

8 ~~C. **B.** No action under this Section shall be recognized in any court of this~~
9 ~~state unless brought upon request of the commissioner of insurance. Whenever a~~
10 ~~receiver is to be appointed for a domestic society, the court shall appoint the~~
11 ~~commissioner of insurance **shall be appointed** as the receiver.~~

12 ~~D. **C.** The provisions of this Section relating to hearing by the commissioner~~
13 ~~of insurance and any action by the commissioner of insurance under R.S. 22:73 and~~
14 ~~96, Subpart H of Part III of **this** Chapter, ~~2~~ and Chapter 9 of this Title shall be~~
15 ~~applicable to a society which shall voluntarily determine to discontinue business.~~

16 * * *

17 §337. Refusal, suspension, and revocation of certificate of authority

18 * * *

19 B. Except for the grounds stated in Paragraphs ~~1, 11, 13 and 14~~ **(1), (11),**
20 **(13), and (14)** of Subsection A of this Section, the commissioner of insurance shall
21 not revoke or suspend the certificate of authority of a foreign or alien insurer until
22 he has given the insurer at least thirty days notice of the proposed revocation or
23 suspension and of the grounds therefor and has afforded the insurer an opportunity
24 for a hearing: **in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.**

25 * * *

26 §369. Revocation or suspension of license

27 ~~A. The~~ **In accordance and compliance with R.S. 49:961, the** commissioner
28 may revoke or suspend any license required by this Subpart ~~after a hearing duly~~
29 ~~called for that purpose which is conducted pursuant to the provisions of the~~

1 ~~Administrative Procedure Act contained in Title 49 of the Louisiana Revised Statutes~~
2 ~~of 1950. Causes for revocation or suspension shall be~~ **should he find any of** the
3 following:

4 (1) If any judgment in favor of a policy holder or his heir or assignees has
5 become final and has not been paid in full within sixty days.

6 (2) If, in the opinion of the commission, the reserve for losses maintained by
7 the insurer are insufficient to cover future losses.

8 (3) If, in the opinion of the commissioner, the insurer is insolvent.

9 (4) If the insurer refuses to allow inspection provided by R.S. 22:371.

10 **B. An aggrieved party affected by the commissioner's decision, act, or**
11 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
12 **22:2191 et seq.**

13 * * *

14 §371. Cease and desist order; penalty for violation

15 A. ~~If a hearing is held pursuant to the provisions of the Administrative~~
16 ~~Procedure Act in Title 49 of the Louisiana Revised Statutes of 1950 and if the~~
17 commissioner should determine that the provisions of this Subpart have been
18 violated, the commissioner shall, in addition to the authority to revoke or suspend a
19 license as provided in R.S. 22:370, have the authority to issue an order requiring
20 such person or insurer violating the provisions of this Subpart, to cease and desist
21 from such method, act, or practice. ~~A written record shall be made of the~~
22 ~~commissioner's findings.~~ **An aggrieved party affected by the commissioner's**
23 **decision, act, or order may demand a hearing in accordance with Chapter 12 of**
24 **this Title, R.S. 22:2191 et seq.**

25 B. ~~If, after issuing such cease and desist order,~~ **no hearing is demanded by**
26 **the aggrieved party or after a final order from the Division of Administrative**
27 **Law is issued withholding the commissioner's order,** such person or insurer
28 continues to violate the provisions of this Subpart, the commissioner may seek the
29 enforcement of such order by civil legal action filed in the district court for the parish

1 of East Baton Rouge. Any person who violates a cease and desist order ~~of the~~
2 ~~commissioner~~ after it has become final and while such order is in effect, shall, upon
3 proof thereof to the satisfaction of the court, forfeit and pay to the state of Louisiana
4 a sum not to exceed five hundred dollars, except that, if such violation is found to be
5 willful, the amount of such penalty shall be a sum not to exceed five thousand
6 dollars.

7 ~~C. The commissioner may issue a cease and desist order prior to a hearing~~
8 ~~in accordance with the Administrative Procedure Act as provided herein for violation~~
9 ~~of R.S. 22:362 or 366.~~

10 * * *

11 §389. Revocation or suspension of license

12 A. The commissioner may revoke or suspend any license required by this
13 Subpart ~~after a hearing duly called for that purpose conducted pursuant to the~~
14 ~~provisions of the Administrative Procedure Act contained in Title 49 of the~~
15 ~~Louisiana Revised Statutes of 1950~~ **in accordance and compliance with R.S.**
16 **49:961.** Any license issued under the provisions of this Subpart shall be revoked or
17 suspended for the following causes:

18 (1) A judgment in favor of a policyholder or his heir or assignees has
19 become final and has not been paid in full within sixty days.

20 (2) In the opinion of the commissioner, the reserve for losses maintained by
21 the insurer are insufficient to cover future losses.

22 (3) In the opinion of the commissioner, the insurer is insolvent.

23 (4) The insurer refuses to allow an inspection as provided in R.S. 22:390.

24 **B. An aggrieved party affected by the commissioner's decision, act, or**
25 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
26 **22:2191 et seq.**

27 * * *

28 §391. Cease and desist order; penalty for violation

29 A. Following a hearing held pursuant to the provisions of the Administrative

1 **affected by the commissioner's decision, act, or order may demand a hearing in**
2 **accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.**

3 * * *

4 §584. Investments in securities

5 * * *

6 D. Any domestic insurer, in addition to the investments permitted by
7 Subsection A of this Section, may invest an amount equal to its capital and surplus
8 if it is a stock company, and, if it is a company other than stock, it may invest an
9 amount equal to its surplus over all liabilities as follows:

10 (1)

11 * * *

12 (b) Such insurers shall not invest more than five percent of its admitted
13 assets in the shares of any one such manufacturing corporation. Such insurers may
14 acquire the stock or other share capital of another insurer but shall not invest more
15 than fifty percent of said funds, directly or indirectly, in shares of another insurer,
16 nor shall such insurer acquire the whole or any part of the stock or other share capital
17 of another insurer which transacts the same kind or kinds of insurance where the
18 effect of such acquisition may be to substantially lessen competition generally or
19 tend to create a monopoly. Investing in the stocks, bonds, or other evidence of
20 indebtedness of any corporation, a substantial portion of whose funds are invested
21 directly or indirectly in the shares of insurance companies, shall be regarded as
22 investing indirectly in such shares. Whenever the commissioner of insurance has
23 reason to believe that there is a violation of this Subsection, he shall ~~hold a hearing,~~
24 **conduct an investigation,** and if he shall find that such investment is in violation of
25 this Subsection, he shall cause such insurer to divest itself of such investment within
26 such reasonable time, or such extension thereof, as he shall specify. Any such order
27 of the commissioner of insurance shall be subject to review as provided in Chapter
28 12 of this Title-, **R.S. 22:2191 et seq.**

29 * * *

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§588. Restriction on acquisition and holding of real property

A. No domestic insurer may acquire or hold real property except as follows:

(1) Such as shall be requisite for the convenient accommodation of the transaction of its own business; the amount invested in such real property shall not exceed twenty per cent of the investing insurer's admitted assets, but the commissioner of insurance may grant permission to the insurer to invest in real property for such purpose, in such increased amount as he may deem proper on the showing made if, ~~upon a hearing held before him,~~ he shall find that the amount represented by such percentage of its admitted assets is insufficient to provide convenient accommodation for the insurer's business;

* * *

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

* * *

§590. When restrictions not applicable

* * *

B. The commissioner of insurance, upon application by the insurer, may extend the time for the disposition of such securities, obligations or other assets for such period or periods as he may deem proper on the showing made, if such insurer may suffer materially by the forced sale thereof; ~~and the commissioner of insurance shall grant a hearing to the insurer upon request.~~ **An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.**

* * *

§595. When investments must comply

The investments in securities and real estate of all domestic insurers shall be made to conform to the requirements of this Subpart by not later than 12:00 noon of October 1, 1953, but the commissioner of insurance may, on application by the

1 insurer, extend the time for such conformance for such period or periods as he may
 2 deem proper on the showing made, if he is satisfied that such insurer will suffer
 3 materially by the forced sale of any securities or property not conforming; ~~and the~~
 4 ~~commissioner of insurance shall grant a hearing to the insurer upon request.~~ **An**
 5 **aggrieved party affected by the commissioner's decision, act, or order may**
 6 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
 7 **seq.**

8 * * *

9 §613. Company-action level event

10 A. "Company-action level event" means any of the following events:

11 * * *

12 (3) If a domestic insurer disputes an adjusted risk-based capital report and
 13 notification by the department to the insurer that the department has rejected the
 14 dispute, ~~after an administrative hearing.~~

15 * * *

16 C. The risk-based capital plan shall be submitted:

17 * * *

18 (2) Within forty-five days after notification to the insurer that the department
 19 has rejected the dispute by an insurer, ~~after an administrative hearing.~~

20 D.

21 * * *

22 (3) Upon notification from the department, the insurer shall prepare a revised
 23 risk-based capital plan that may incorporate any revisions proposed by the
 24 department. The insurer shall submit the revised risk-based capital plan to the
 25 department:

26 * * *

27 (b) Within forty-five days after a notification to the insurer that the
 28 department has rejected the dispute of the insurer, ~~after an administrative hearing.~~

29 * * *

1 §614. Regulatory-action level event

2 A. "Regulatory-action level event" shall mean any of the following events:

3 * * *

4 (9) If the insurer challenges a determination by the department, the
5 notification by the department in Paragraph (8) of this Subsection to the insurer that
6 the department has rejected the dispute: **after an administrative hearing.**

7 * * *

8 C. The determination by the department for corrective action, may take into
9 account such factors as are deemed relevant with respect to the insurer based upon
10 the examination or analysis by the department of the assets, liabilities, and operations
11 of the insurer. The analysis shall not be limited to the results of any sensitivity tests
12 undertaken pursuant to the risk-based capital instructions. The risk-based capital
13 plan or revised risk-based capital plan shall be submitted:

14 * * *

15 (2) Within forty-five days after the notification to the insurer that the
16 department has rejected the dispute by the insurer, ~~after a hearing,~~ unless the dispute
17 is frivolous as determined by the department.

18 * * *

19 §615. Authorized-control level event

20 A. "Authorized-control level event" shall mean any of the following events:

21 * * *

22 (5) If the insurer has disputed a corrective order pursuant to R.S. 22:617 and
23 the department has rejected the dispute ~~after an administrative hearing~~ or modified
24 the corrective order, the failure of the insurer to respond to the corrective order in a
25 satisfactory manner subsequent to rejection or modification by the department.

26 * * *

27 §616. Mandatory-control level event

28 A. "Mandatory-control level event" shall mean any of the following events:

29 * * *

1 (3) If the insurer disputes an adjusted risk-based capital report that contains
 2 the event in Paragraph (1) of this Subsection, notification by the department to the
 3 insurer that the department has rejected the dispute by the insurer, ~~after an~~
 4 ~~administrative hearing.~~

* * *

6 §634. ~~Company action~~ **Company-action** level event

7 A. A "~~company action~~ **company-action** level event" means any of the
 8 following:

* * *

10 (3) If pursuant to R.S. 22:638, a health organization challenges an adjusted
 11 risk-based capital report that indicates the event in Paragraph (1) of this Subsection,
 12 the notification by the commissioner to the health organization that the commissioner
 13 has, ~~after a hearing,~~ rejected the health organization's challenge.

* * *

15 C. The risk-based capital plan shall be submitted either:

* * *

17 (2) If the health organization challenges an adjusted risk-based capital report
 18 pursuant to R.S. 22:638, within forty-five days after notification to the health
 19 organization that the commissioner has, ~~after a hearing,~~ rejected the health
 20 organization's challenge.

21 D. Within sixty days after the submission by a health organization of a risk-
 22 based capital plan to the commissioner, the commissioner shall notify the health
 23 organization whether the risk-based capital plan shall be implemented or is, in the
 24 judgment of the commissioner, unsatisfactory. If the commissioner determines the
 25 risk-based capital plan is unsatisfactory, the notification to the health organization
 26 shall set forth the reasons for the determination and may set forth proposed revisions
 27 which will render the risk-based capital plan satisfactory, in the judgment of the
 28 commissioner. Upon notification from the commissioner, the health organization
 29 shall prepare a revised risk-based capital plan, which may incorporate by reference

1 any revisions proposed by the commissioner, and shall submit the revised risk-based
2 capital plan to the commissioner either:

3 * * *

4 (2) If the health organization challenges the notification from the
5 commissioner pursuant to R.S. 22:638, within forty-five days after a notification to
6 the health organization that the commissioner has, ~~after a hearing~~, rejected the health
7 organization's challenge.

8 * * *

9 §635. ~~Regulatory action~~ **Regulatory-action** level event

10 A. "~~Regulatory action~~ **Regulatory-action** level event" means any of the
11 following events:

12 * * *

13 (3) If, pursuant to R.S. 22:638, the health organization challenges an adjusted
14 risk-based capital report that indicates the event in Paragraph (1) of this Subsection,
15 the notification by the commissioner to the health organization that the commissioner
16 has, ~~after a hearing~~, rejected the health organization's challenge.

17 * * *

18 (7) If, pursuant to R.S. 22:638, the health organization challenges a
19 determination by the commissioner pursuant to Paragraph (6) of this Subsection, the
20 notification by the commissioner to the health organization that the commissioner
21 has, ~~after a hearing~~, rejected the challenge.

22 * * *

23 (9) If, pursuant to R.S. 22:638, the health organization challenges a
24 determination by the commissioner under Paragraph (8) of this Subsection, the
25 notification by the commissioner to the health organization that the commissioner
26 has, ~~after a hearing~~, rejected the challenge.

27 * * *

28 C. In determining corrective actions, the commissioner may take into
29 account factors the commissioner deems relevant with respect to the health

1 organization based upon the commissioner's examination or analysis of the assets,
2 liabilities, and operations of the health organization, including but not limited to the
3 results of any sensitivity tests undertaken pursuant to the risk-based capital
4 instructions. The risk-based capital plan or revised risk-based capital plan shall be
5 submitted either:

6 * * *

7 (2) If the health organization challenges an adjusted risk-based capital report
8 pursuant to R.S. 22:638 and the challenge is not frivolous in the judgment of the
9 commissioner, within forty-five days after the notification to the health organization
10 that the commissioner has, ~~after a hearing,~~ rejected the health organization's
11 challenge.

12 * * *

13 §636. ~~Authorized control~~ **Authorized-control** level event

14 A. "~~Authorized control~~ **Authorized-control** level event" means any of the
15 following events:

16 * * *

17 (3) If, pursuant to R.S. 22:638, the health organization challenges an adjusted
18 risk-based capital report that indicates the event in Paragraph (1) of this Subsection,
19 notification by the commissioner to the health organization that the commissioner
20 has, ~~after a hearing,~~ rejected the health organization's challenge.

21 * * *

22 (5) If the health organization has challenged a corrective order pursuant to
23 R.S. 22:638 and the commissioner has, ~~after a hearing,~~ rejected the challenge or
24 modified the corrective order, the failure of the health organization to respond, in a
25 manner satisfactory to the commissioner, to the corrective order subsequent to
26 rejection or modification by the commissioner.

27 * * *

28 §637. ~~Mandatory control~~ **Mandatory-control** level event

29 A. "~~Mandatory control~~ **Mandatory-control** level event" means any of the

1 following events:

2 * * *

3 (3) If, pursuant to R.S. 22:638, the health organization challenges an adjusted
4 risk-based capital report that indicates the event in Paragraph (1) of this Subsection,
5 notification by the commissioner to the health organization that the commissioner
6 has, ~~after a hearing,~~ rejected the health organization's challenge.

7 * * *

8 §638. Hearings

9 Upon the occurrence of any of the following events, the health organization
10 shall have the right to ~~a confidential departmental hearing, on a record, at which the~~
11 ~~health organization may challenge any determination or action by the commissioner.~~
12 ~~The health organization shall notify the commissioner of its request for a hearing~~
13 ~~within five days after the notification by the commissioner under Paragraph (1), (2),~~
14 ~~(3), or (4) of this Section. Upon receipt of the health organization's request for a~~
15 ~~hearing, the commissioner shall set a date for the hearing, which shall be no less than~~
16 ~~ten nor more than thirty days after the date of the health organization's request.~~

17 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
18 **seq.** The events include:

19 * * *

20 §656. Agreements requiring approval

21 * * *

22 B. If the commissioner of insurance refuses to approve any such agreement
23 submitted for his approval, ~~he shall grant the insurer a hearing upon request~~ **an**
24 **aggrieved party affected by the commissioner's decision, act, or order may**
25 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
26 **seq.**

27 * * *

28 §661. Authorization; ~~hearings on violations~~

29 ~~A.~~ The commissioner may adopt, pursuant to the provisions of the

1 Administrative Procedure Act, **R.S. 49:950 et seq.**, rules and regulations to
2 implement any provision of this Subpart.

3 ~~B. The commissioner may conduct hearings in accordance with Chapter 12~~
4 ~~of this Title on any matters arising out of the application or violation of the~~
5 ~~provisions of this Subpart or any rules and regulations promulgated pursuant thereto.~~

6 * * *

7 §674. Exemptions and filing dates

8 A.

9 * * *

10 (3) Within ten days after a denial of the written request for an exemption
11 from this Subpart, the insurer may request, in writing, a hearing on its application for
12 an exemption. The hearing shall be held in accordance with Chapter 12 of ~~the~~
13 ~~Louisiana Insurance Code~~ **Chapter 12 of this Title, R.S. 22:2191 et seq.**

14 * * *

15 B. Upon written application of an insurer, the commissioner may permit an
16 insurer to file annual financial reports for specified periods on another basis other
17 than a calendar year basis. Within ten days from a denial of such a written request,
18 the insurer may request, in writing, a hearing on its application. The hearing shall
19 be held in accordance with Chapter 12 of ~~the Louisiana Insurance Code~~ **this Title,**
20 **R.S. 22:2191 et seq.**

21 * * *

22 §694. Acquisition of control of or merger with domestic insurer

23 * * *

24 D. Approval by commissioner; hearings.

25 (1) The commissioner shall approve any merger or other acquisition of
26 control referred to in Subsection A of this Section unless, after a public hearing, ~~held~~
27 ~~pursuant to the provisions of Chapter 12 of Title 22 of the Louisiana Revised Statutes~~
28 ~~of 1950, he~~ **He** finds that:

29 * * *

1 contracts and restore the status quo if such action is in the best interest of the
2 policyholders, creditors, or the public.

3 * * *

4 **E. An aggrieved party affected by the commissioner's decision, act, or**
5 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
6 **22:2191 et seq.**

7 * * *

8 §731. Administrative supervision; commissioner

9 * * *

10 D. If the commissioner determines after due notice ~~and proper hearing in~~
11 **accordance and compliance with R.S. 49:961** that the conditions which
12 precipitated the administrative supervision still exist, he may extend the period of
13 supervision.

14 * * *

15 **F. An aggrieved party affected by the commissioner's decision, act, or**
16 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
17 **22:2191 et seq.**

18 §732. Confidentiality of certain proceedings and records; immunity of certain staff

19 A. Notwithstanding any other provision of law, all proceedings, hearings,
20 notices, correspondence, reports, and other information in the possession of the
21 commissioner or the department of insurance relating to the supervision of any
22 insurer are confidential, except as otherwise provided in this Section: **and as**
23 **otherwise provided by the Administrative Procedure Act, R.S. 49:950 et seq.**

24 * * *

25 C. The commissioner may open the proceedings ~~or hearings~~, or disclose the
26 notices, correspondence, reports, records, or information to any department, agency,
27 or other instrumentality of the state or of the United States if the opening or
28 disclosure is necessary or proper for the enforcement of the laws of this or any other
29 state of the United States.

* * *

§821. Fees

The following fees and licenses shall be collected in advance:

* * *

G. The commissioner may, ~~after notice and hearing,~~ promulgate such rules and regulations as may be necessary and proper to carry out the provisions of this Section. Such rules and regulations shall be promulgated and adopted in accordance with the Administrative Procedure Act, **R.S. 49:950 et seq.**

* * *

§833. Authorization of local license taxes; penalties for nonpayment

* * *

C.

* * *

(3) When a payment is more than six months delinquent, the municipal or parochial corporation may send a written recommendation to the commissioner of insurance requesting the commissioner to revoke the authority of the delinquent taxpayer and all of the taxpayer's agents to do business in this state. Upon receiving such a recommendation and finding that the local tax assessment is correct and the insurer was duly notified of the assessment after the payment thereof is delinquent, the commissioner, after due notice to all affected parties, ~~and hearing,~~ may revoke the authority of the taxpayer and all the taxpayer's agents to do business in this state.

D. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

* * *

§855. Quoted premium shall include all charges; dollar amount required

* * *

E.(1) ~~The commissioner may convene a hearing, pursuant to the provisions of Chapter 12 of the Insurance Code, R.S. 22:2191 et seq., and upon~~ **Upon** making

1 a written finding that an amount in excess of the quoted premium has been received,
2 shall issue a written order to the person who received the excess amount to refund
3 it to the person who paid it. Such amount shall be paid within thirty days after the
4 date of the commissioner's order in the matter.

5 * * *

6 §972. Approval and disapproval of forms; filing of rates

7 A. No policy of health and accident insurance shall be delivered or issued
8 for delivery in this state, nor shall any endorsement, rider, or application which
9 becomes a part of any such policy be used in connection therewith until a copy of the
10 form and of the premium rates and of the classifications of risks pertaining thereto
11 have been filed with the commissioner of insurance; nor shall any such policy,
12 endorsement, rider, or application be so used until the expiration of thirty days after
13 the form has been filed unless the commissioner of insurance shall sooner give his
14 written approval thereto. The commissioner of insurance shall notify in writing the
15 insurer which has filed any such form if it does not comply with the provisions of
16 this Subpart, specifying the reasons for his opinion; and it shall thereafter be
17 unlawful for such insurer to issue such form in this state. ~~In such notice, the~~
18 ~~commissioner of insurance shall state that a hearing will be granted within twenty~~
19 ~~days upon written request of the insurer.~~ **An aggrieved party affected by the**
20 **commissioner's decision, act, or order may demand a hearing in accordance**
21 **with Chapter 12 of this Title, R.S. 22:2191 et seq.**

22 B. ~~The~~ **After twenty days' notice, the** commissioner of insurance may at
23 ~~any time, after a hearing of which not less than twenty days written notice shall have~~
24 ~~been given to the insurer,~~ withdraw his approval of any such form on any of the
25 grounds stated in this Section. It shall be unlawful for the insurer to issue such form
26 or use it in connection with any policy after the effective date of such withdrawal of
27 approval. ~~The notice of any hearing called under this Sub-section shall specify the~~
28 ~~matters to be considered at such hearing and any decision affirming disapproval or~~
29 ~~directing withdrawal of approval under this Section shall be in writing and shall~~

1 specify the reasons therefor. **An aggrieved party affected by the commissioner's**
2 **decision, act, or order may demand a hearing in accordance with Chapter 12 of**
3 **this Title, R.S. 22:2191 et seq.**

4 * * *

5 §974. Standard forms

6 The commissioner of insurance may from time to time, ~~after hearing,~~ **in**
7 **accordance with the Administrative Procedure Act, R.S. 22:49:950 et seq.,**
8 promulgate such rules and regulations as he deems necessary to establish reasonable
9 minimum standard conditions for basic benefits to be provided by health and
10 accident insurance contracts which are subject to R.S. 22:972, 973, 975-983, 985-
11 990, 992, 993, 999-1014, 1021-1048, 1091-1096, 1111, and 1156, for the purpose
12 of expediting his approval of such contracts pursuant to this Code. No such
13 promulgation shall be inconsistent with standard provisions as required pursuant to
14 R.S. 22:863.

15 * * *

16 §1071. Enforcement provisions

17 * * *

18 C.

19 * * *

20 (3)

21 * * *

22 (d) The entity assessed shall be afforded an opportunity for hearing in
23 accordance with Chapter 12 of **this** Title, ~~22 of the Louisiana Revised Statutes of~~
24 ~~1950, by the commissioner of insurance upon request made within thirty days after~~
25 ~~the date of the issuance of a notice of assessment.~~ **R.S. 22:2191 et seq.**

26 * * *

27 §1141. Regulations

28 The commissioner may, ~~after notice and hearing,~~ promulgate such rules and
29 regulations as may be necessary or proper to carry out the provisions of this Subpart.

1 commissioner may levy a fine on any participating insurer who fails to pay an
2 assessed fee when due. The fine shall not exceed five percent of the unpaid fee
3 assessment per month, but no fine shall be less than one hundred dollars per month.

4 **C. An aggrieved party affected by the commissioner's decision, act, or**
5 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
6 **22:2191 et seq.**

7 * * *

8 §1451. Systems for ratemaking

9 * * *

10 E. All provisions of this Section shall be applicable when a competitive
11 market in property and casualty lines insurance exists. The commissioner may
12 determine if there exists a competitive or noncompetitive market pursuant to the
13 provisions of R.S. 22:1453, including requiring reasonable notice ~~and a hearing~~ prior
14 to determining a market to be noncompetitive. ~~If, after a hearing,~~ the commissioner
15 determines the market to be noncompetitive, all rate filings shall follow the
16 provisions of Subsection C of this Section without regard to the exception specified
17 in Subsection D of this Section. **An aggrieved party affected by the**
18 **commissioner's decision, act, or order may demand a hearing in accordance**
19 **with Chapter 12 of this Title, R.S. 22:2191 et seq.**

20 * * *

21 §1453. Competitive market

22 A.(1) A competitive market for a line of insurance is presumed to exist
23 unless the commissioner, after giving reasonable notice and after conducting a
24 **public** hearing, determines that a reasonable degree of competition does not exist
25 within a market and issues a ruling that a reasonable degree of competition in the
26 market for a particular line of insurance does not exist. In any **public** hearing to
27 determine whether a competitive market exists for a line of insurance, the party
28 alleging that competition does not exist shall have the burden of proving that market
29 competition does not exist.

* * *

D. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

* * *

§1465. Disapproval of filings; rates; procedures

A.

* * *

(3)(a) If at any time after a filing has become effective under R.S. 22:1451, the commissioner finds that a filing does not meet the requirements of this Subpart, he shall request a **public** hearing to be held upon not less than ten days' written notice, specifying the matters to be considered at such hearing to every insurer and rating organization which made such filing, and the commissioner shall thereafter issue an order specifying in what respects, if any, the commissioner finds that such filing fails to meet the requirements of this Subpart, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective.

* * *

B.(1) Any insurer whose rate filing is returned as incomplete more than once or disapproved or not acted upon within forty-five days from the date of receipt by the commissioner under this Subsection shall be given a **public** hearing upon written request made within thirty days of the return of the rate filing, disapproval of the rate filing, or inaction of the commissioner.

(2) If the commissioner, after conducting a **public** hearing, disapproves a new rate or rate change, he shall issue his order within thirty days of such hearing and shall specify the reasons why the new rate or rate change does not comply with the requirements of this Subpart. The commissioner's order shall state a date, not later than thirty days after the date of the order, on which the new rate or rate change shall be discontinued. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued

1 prior to the expiration of the period set forth in said order.

2 C.~~(1)~~ Any person or organization aggrieved with respect to any filing which
 3 is in effect may ~~make written application to the commissioner for a hearing thereon;~~
 4 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
 5 **seq.**; however, the insurer or rating organization that made the filing shall not be
 6 authorized to proceed under this Subsection. ~~Such application shall specify the~~
 7 ~~grounds to be relied upon by the applicant. If the commissioner shall find that the~~
 8 ~~application is made in good faith, that the applicant would be so aggrieved if his~~
 9 ~~grounds are established, and that such grounds otherwise justify holding such a~~
 10 ~~hearing, he shall within thirty days after receipt of such application hold a hearing~~
 11 ~~upon not less than ten days' written notice to the applicant and to every insurer and~~
 12 ~~rating organization which made such filing.~~

13 ~~(2) If, after such hearing, the commissioner finds that the filing does not~~
 14 ~~meet the requirements of this Subpart, he shall issue an order specifying in what~~
 15 ~~respect the commissioner finds that such filing fails to meet the requirements of this~~
 16 ~~Subpart, and stating when, within a reasonable period thereafter, such filing shall be~~
 17 ~~deemed no longer effective. Copies of the order shall be sent to the applicant and to~~
 18 ~~every such insurer and rating organization. The order shall not affect any contract~~
 19 ~~or policy made or issued prior to the expiration of the period set forth in said order.~~

20 §1466. Other rating organizations

21 A. A corporation, an unincorporated association, a partnership, or an
 22 individual, whether located within or outside this state, may make application to the
 23 commissioner of insurance for license as a rating organization for such kinds of
 24 insurance, or subdivision, or class of risk, or a part or combination thereof as are
 25 specified in its application and shall file therewith: (1) a copy of its constitution, its
 26 articles of agreement or association, or its certificate of incorporation, and of its
 27 bylaws, rules, and regulations governing the conduct of its business, (2) a list of its
 28 members and subscribers, (3) the name and address of a resident of this state upon
 29 whom notices or orders of the commissioner or a division or process affecting such

1 rating organization may be served, and (4) a statement of its qualifications as a rating
2 organization. If the commissioner finds that the applicant is competent, trustworthy,
3 and otherwise qualified to act as a rating organization and that the public interest
4 would be served by issuing a license to such organization, not heretofore licensed,
5 for a kind or class of insurance subject to this Subpart, and that its constitution,
6 articles of agreement or association, or certificate of incorporation, and its bylaws,
7 rules, and regulations governing the conduct of its business conform to the
8 requirements of law, the commissioner shall issue a license specifying the kinds of
9 insurance, or subdivision, or class of risk, or part or combination thereof for which
10 the applicant is authorized to act as a rating organization. Every such application
11 shall be granted or denied in whole or in part by the commissioner within sixty days
12 of the date of its filing with it. Licenses issued pursuant to this Section shall remain
13 in effect for three years unless sooner suspended or revoked by the commissioner.
14 Licenses issued pursuant to this Section may be suspended or revoked by the
15 commissioner ~~after hearing upon notice,~~ **in accordance and compliance with R.S.**
16 **49:961** in the event the rating organization ceases to meet the requirements of this
17 Subsection. Every rating organization shall notify the commissioner promptly of
18 every change in: (1) its constitution, its articles of agreement, or association, or its
19 certificate of incorporation, and its bylaws, rules, and regulations governing the
20 conduct of its business, (2) its list of members and subscribers, and (3) the name and
21 address of the resident of this state designated by it upon whom notices or orders of
22 the commissioner or process affecting such rating organization may be served.

23 B. Subject to rules and regulations which have been approved by the
24 commissioner of insurance as reasonable, each rating organization, including the
25 Property Insurance Association of Louisiana, shall permit any insurer not a member
26 to be a subscriber to its rating services for any kind of insurance, subdivision, or
27 class of risk or a part or combination thereof for which it is authorized to act as a
28 rating organization. Notice of proposed changes in such rules and regulations shall
29 be given to subscribers. Each rating organization shall furnish its rating services

1 without discrimination to its members and subscribers. The reasonableness of any
2 rule or regulation in its application to subscribers, or the refusal of any rating
3 organization to admit an insurer as a subscriber, shall, at the request of any
4 subscriber or any such insurer, be reviewed by the commissioner at a **public** hearing
5 held upon at least ten days' written notice to such rating organization and to such
6 subscriber or insurer. If the commissioner finds that such rule or regulation is
7 unreasonable in its application to subscribers, the commissioner shall order that such
8 rule or regulation shall not be applicable to subscribers. If the rating organization
9 fails to grant or reject an insurer's application for subscribership within thirty days
10 after it was made, the insurer may request a review by the commissioner as if the
11 application had been rejected. If the commissioner finds that the insurer has been
12 refused admittance to the rating organization as a subscriber without justification, the
13 commissioner shall order the rating organization to admit the insurer as a subscriber.
14 If the commissioner finds that the action of the rating organization was justified, it
15 shall make an order affirming its action.

16 * * *

17 D. Cooperation among rating organizations or among rating organizations
18 and insurers in ratemaking or in other matters within the scope of this Subpart is
19 hereby authorized, provided the filings resulting from such cooperation are subject
20 to all the provisions of this Subpart which are applicable to filing generally. The
21 commissioner of insurance may review such cooperative activities and practices and
22 if, after a **public** hearing, it finds that any such activity or practice is unfair or
23 unreasonable or otherwise inconsistent with the provisions of this Subpart, the
24 commissioner shall issue a written order specifying in what respects such activity or
25 practice is unfair or unreasonable or otherwise inconsistent with the provisions of
26 this Subpart, and requiring the discontinuance of such activity or practice.

27 E. Any rating organization may provide for the examination of policies, daily
28 reports, binders, renewal certificates, endorsements, or other evidences of insurance,
29 or the cancellation thereof, and may make reasonable rules governing their

1 submission. Such rules shall contain a provision that in the event any insurer does
 2 not within sixty days furnish satisfactory evidence to the rating organization of the
 3 correction of any error or omission previously called to its attention by the rating
 4 organization it shall be the duty of the rating organization to notify the commissioner
 5 of insurance thereof. No such notification need be furnished the commissioner
 6 unless it is apparent that a **public** hearing will be required. All information so
 7 submitted for examination shall be confidential.

8 * * *

9 §1469. Appeal by subscriber to a rating organization

10 A. Any member of or subscriber to a rating organization may appeal to the
 11 commissioner from the action or decision of such rating organization in approving
 12 or rejecting any proposed change in or addition to the filings of such rating
 13 organization. The commissioner shall, after a **public** hearing held upon not less than
 14 ten days' written notice to the appellant and to such rating organization, issue an
 15 order approving the action or decision of such rating organization or directing it to
 16 give further consideration to such proposal, or, if such appeal is from the action or
 17 decision of the rating organization in rejecting a proposed addition to its filings, he
 18 may, in the event the commissioner finds that such action or decision was
 19 unreasonable, issue an order directing the rating organization to make an addition to
 20 its filings, on behalf of its members and subscribers, in a manner consistent with the
 21 findings of the commissioner within a reasonable time after the issuance of such
 22 order. All appeals shall be to the commissioner, who shall hold a public hearing on
 23 the appeal.

24 * * *

25 §1470. Information to be furnished insureds; hearings and appeals of insureds

26 * * *

27 B. Every rating organization and every insurer which makes its own rates
 28 shall provide within this state reasonable means whereby any person aggrieved by
 29 the application of its rating system may be heard in person or by his authorized

1 representative, on his written request to review the manner in which such rating
 2 system has been applied in connection with the insurance afforded him. If the rating
 3 organization or insurer fails to grant or reject such request within thirty days after it
 4 is made, the applicant may proceed in the same manner as if his application had been
 5 rejected. Any party affected by the action of such rating organization or such
 6 insurer, except for a worker's compensation insurer, on such request may, within
 7 thirty days after written notice of such action, appeal to the commissioner of
 8 insurance, who, after a **public** hearing held upon not less than ten days' written notice
 9 to the appellant and to such rating organization or insurer, may affirm or reverse such
 10 action. Except as provided in R.S. 23:1395(A), any party affected by the action of
 11 a worker's compensation insurer may appeal in accordance with the procedures
 12 adopted by the commissioner and thereafter to the Nineteenth Judicial District Court
 13 in accordance with the provisions of the Louisiana Code of Civil Procedure. In the
 14 event that this Section is in conflict with R.S. 23:1395(A), the provisions of R.S.
 15 23:1395(A) shall control.

§1471. Advisory organizations

* * *

18 C. If after a **public** hearing, the commissioner of insurance finds that the
 19 furnishing of such information or assistance involves any act or practice which is
 20 unfair or unreasonable or otherwise inconsistent with the provisions of this Subpart,
 21 the commissioner shall issue a written order specifying in what respects such act or
 22 practice is unfair or unreasonable or otherwise inconsistent with the provisions of
 23 this Subpart, and requiring the discontinuance of such act or practice.

* * *

25 **E. 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.**

§1472. Joint underwriting or joint reinsurance

* * *

1 **C. An aggrieved party affected by the commissioner's decision, act, or**
 2 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
 3 **22:2191 et seq.**

4 * * *

5 §1529. Penalties

6 A. Any lessor who is found by the commissioner, ~~after notice and hearing,~~
 7 to have violated or attempted to violate any provision of this Part, may be subject to
 8 a penalty under this Section, as determined by the commissioner. Each issuance,
 9 procurement, or negotiation of a single collision damage waiver shall be deemed a
 10 separate violation.

11 * * *

12 **C. An aggrieved party affected by the commissioner's decision, act, or**
 13 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
 14 **22:2191 et seq.**

15 * * *

16 §1546. Application for license

17 * * *

18 B.(1)

19 * * *

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

25 * * *

26 §1547. License

27 * * *

28 G. Every licensee shall notify the commissioner, by any means acceptable
 29 to the commissioner, of any alteration in his residential, mailing, or business address

1 within ten days of the alteration. Failure to file an address change within the required
 2 time shall result in the imposition of a fifty-dollar penalty per violation, or as may
 3 be authorized by R.S. 22:821. Any person against whom a penalty has been levied
 4 shall be given due notice of such action. Upon receipt of this notice, the licensee
 5 may apply for and shall be entitled to a hearing: **in accordance with Chapter 12 of**
 6 **this Title, R.S. 22:2191 et seq.**

7 * * *

8 §1549. Specialty limited lines credit insurance

9 * * *

10 G. If a specialty limited lines credit insurance producer violates any
 11 provision of this Subpart, the commissioner of insurance may, ~~after notice and~~
 12 ~~opportunity for a hearing,~~ **in accordance and compliance with R.S. 49:961,** impose
 13 any penalties he deems necessary or appropriate to enforce the provisions of this
 14 Subpart, including but not limited to placing the license holder on probation,
 15 suspending, revoking, or refusing to renew or reinstate the license, assessing an
 16 administrative penalty against the license holder, suspending the transaction of
 17 insurance business at specific locations where a violation of this Subpart has
 18 occurred, or any combination of penalties authorized by this Subpart.

19 * * *

20 **K. An aggrieved party affected by the commissioner's decision, act, or**
 21 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
 22 **22:2191 et seq.**

23 §1550. Specialty limited lines motor vehicle title insurance producer licenses

24 * * *

25 G. If a specialty limited lines motor vehicle title insurance producer violates
 26 any provision of this Subpart, the commissioner of insurance may, ~~after notice and~~
 27 ~~opportunity for a hearing,~~ **in accordance and compliance with R.S. 49:961,**
 28 impose any penalties he deems necessary or appropriate to enforce the provisions of
 29 this Subpart, including but not limited to placing the license holder on probation,

1 suspending, revoking, or refusing to renew or reinstate the license, assessing an
2 administrative penalty against the license holder, suspending the transaction of
3 insurance business at specific locations where a violation of this Subpart has
4 occurred, or any combination of penalties authorized by this Subpart.

5 * * *

6 **K. An aggrieved party affected by the commissioner's decision, act, or**
7 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
8 **22:2191 et seq.**

9 * * *

10 §1554. License denial, nonrenewal, or revocation

11 * * *

12 B. If the commissioner denies any application for a license; **in accordance**
13 **and compliance with R.S. 49:961**, the commissioner shall notify the applicant and
14 advise the applicant in writing of the reasons for the denial. ~~Within thirty days of~~
15 ~~receipt of notification of denial, the applicant may make written demand to the~~
16 ~~commissioner for a hearing on the matter of denial.~~ **An aggrieved party affected**
17 **by the commissioner's decision, act, or order may demand a hearing in**
18 **accordance with 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. ~~Within thirty days of receipt of notification of denial, the licensee may~~
26 ~~make written demand to the commissioner for a hearing to seek a reversal of the~~
27 ~~determination by the commissioner.~~ **An aggrieved party affected by the**
28 **commissioner's decision, act, or order may demand a hearing in accordance**
29 **with Chapter 12 of this Title, R.S. 22:2191 et seq.**

1 **seq.**

2 C. The claims adjuster license of a business entity may be suspended,
3 revoked, or refused if the commissioner of insurance finds, ~~after hearing,~~ **in**
4 **accordance and compliance with R.S. 49:961,** that an individual licensee's
5 violation was known or should have been known by one or more of the partners,
6 officers, or managers of the business entity and the violation was not reported to the
7 commissioner of insurance.

8 * * *

9 §1699. License

10 * * *

11 B. The licensee shall inform the commissioner of insurance by any means
12 acceptable to the commissioner of insurance of a change of address, change of legal
13 name, or change of information submitted on the application within thirty days of the
14 change. Failure to file a change within the required time shall result in the
15 imposition of a fifty dollar penalty per violation, or as may be authorized by R.S.
16 22:821. Any person against whom a penalty has been levied shall be given due
17 notice of such action. Upon receipt of this notice, the licensee may apply for and
18 shall be entitled to a hearing: **in accordance with Chapter 12 of this Title, R.S.**
19 **22:2191 et seq.**

20 * * *

21 §1700. License denial, nonrenewal, or revocation

22 * * *

23 C. In the event that the action by the commissioner of insurance is to deny
24 an application for or not renew a license, the commissioner of insurance shall notify
25 the applicant or licensee and advise, in writing, **in accordance and compliance with**
26 **R.S. 49:961,** the applicant or licensee of the reason for the nonrenewal or denial of
27 the applicant's or licensee's license. ~~The applicant or licensee may make written~~
28 ~~demand upon the commissioner of insurance within thirty days for a hearing to~~
29 ~~determine the reasonableness of the commissioner of insurance's action.~~ **An**

1 **aggrieved party affected by the commissioner's decision, act, or order may**
2 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
3 **seq.**

4 D. The license of a business entity may be suspended, revoked, or refused
5 if the commissioner of insurance finds, after hearing, **complying with R.S. 49:961,**
6 that an individual licensee's violation was known or should have been known by one
7 or more of the partners, officers, or managers acting on behalf of the business entity
8 and the violation was neither reported to the commissioner of insurance nor
9 corrective action taken.

10 E. In addition to or in lieu of any applicable denial, suspension, or revocation
11 of a license, a person may, after hearing, be subject to a fine as provided herein: **after**
12 **the commissioner's compliance with R.S. 49:961.**

13 * * *

14 §1731. Penalties and liabilities

15 A. Any reinsurance intermediary, insurer, or reinsurer found by the
16 commissioner, after a public hearing, ~~held pursuant to the provisions of Chapter 12~~
17 ~~of Title 22 of the Louisiana Revised Statutes of 1950,~~ to be in violation of any
18 provision of this Part, shall:

19 * * *

20 §1793. License revocation and denial

21 * * *

22 ~~C. If the commissioner denies a license application or suspends, revokes, or~~
23 ~~refuses to renew the license of a viatical settlement provider, viatical settlement~~
24 ~~broker, or viatical settlement investment agent, the commissioner shall conduct a~~
25 ~~hearing in accordance with Chapter 12 of this Title, subject to the provisions of~~
26 ~~Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. Such hearing~~
27 ~~shall not be required in association with the expiration of a license due to failure to~~
28 ~~pay the annual renewal fee. **An aggrieved party affected by the commissioner's**~~
29 **decision, act, or order may demand a hearing in accordance with Chapter 12 of**

1 the following:

2 * * *

3 B. Any health insurance issuer who violates a cease and desist order issued
4 by the commissioner pursuant to this Section **and in accordance with R.S. 49:961**
5 while such order is in effect shall, after notice, ~~and opportunity for hearing,~~ be
6 subject at the discretion of the commissioner to any one or more of the following:

7 * * *

8 **C. An aggrieved party affected by the commissioner's decision, act, or**
9 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
10 **22:2191 et seq.**

11 * * *

12 §1968. Notice of hearing

13 Whenever the commissioner shall have reason to believe that any person has
14 been engaged or is engaging in this state in any unfair trade practice as defined in
15 Title 22 of the Louisiana Revised Statutes, whether or not defined in this Part, the
16 commissioner shall ~~notify such person of his belief and hold a hearing in accordance~~
17 ~~with the provisions of Chapter 12 of Title 22 regarding such matter or matters.~~ **issue**
18 **a notice of wrongful conduct to said person in accordance and compliance with**
19 **R.S. 49:961 describing the unfair trade practice and citing the law which is**
20 **deemed by the commissioner to be violated.**

21 §1969. Violations, penalties

22 **A. If, after the hearing, receiving the person's answer or response or if no**
23 **answer or response is received within twenty days of receipt of mailing, faxing,**
24 **or delivery of the notice,** the commissioner shall determine that the person charged
25 has engaged in an unfair method of competition or an unfair or deceptive act or
26 practice, he shall reduce his findings to writing and shall issue and cause to be served
27 upon the person charged with the violation a copy of such findings and an order
28 requiring such person to cease and desist from engaging in such method of
29 competition, act, or practice and order any one or more of the following:

1 (1) Payment of a monetary penalty of not more than one thousand dollars for
2 each and every act or violation, but not to exceed an aggregate penalty of one
3 hundred thousand dollars unless the person knew or reasonably should have known
4 he was in violation of this Part, in which case the penalty shall be not more than
5 twenty-five thousand dollars for each and every act or violation, but not to exceed
6 an aggregate penalty of two hundred fifty thousand dollars in any six-month period.

7 (2) Suspension or revocation of the license of the person if he knew or
8 reasonably should have known he was in violation of this Part.

9 **B. An aggrieved party affected by the commissioner's decision, act, or**
10 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
11 **22:2191 et seq.**

12 §1970. Cease and desist order; penalty for violation

13 **A.** Any person who violates a cease and desist order of the commissioner
14 under R.S. 22:1969 and while such order is in effect may after ~~notice and hearing~~
15 ~~under R.S. 22:2191 and upon order of the commissioner~~ **compliance with R.S.**
16 **49:961** be subject at the discretion of the commissioner to any one or more of the
17 following:

18 (1) A monetary penalty of not more than twenty-five thousand dollars for
19 each and every act or violation, not to exceed an aggregate of two hundred fifty
20 thousand dollars, ~~pursuant to such hearing.~~

21 (2) Suspension or revocation of such person's license or certificate of
22 authority.

23 **B. An aggrieved party affected by the commissioner's decision, act, or**
24 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
25 **22:2191 et seq.**

26 * * *

27 §1995. Departmental complaint directives; failure to comply; fines; hearing

28 * * *

29 B. Any person against whom a fine has been levied shall be given **ten days**

1 notice of such action. Upon receipt of this notice, the person aggrieved may apply
2 for and shall be entitled to a hearing pursuant to **Chapter 12 of this Title, R.S.**
3 22:2191 et seq.

4 * * *

5 §2060. Duties and powers of the commissioner

6 * * *

7 B. The commissioner may:

8 * * *

9 (2) Suspend or revoke, after ~~notice and hearing~~, **compliance with R.S.**
10 **49:961**, the certificate of authority to transact insurance in this state of any member
11 insurer which fails to pay an assessment when due or fails to comply with the plan
12 of operation. As an alternative, the commissioner may levy a fine on any member
13 insurer which fails to pay an assessment when due. Such fine shall not exceed five
14 percent of the unpaid assessment per month, except that no fine shall be less than one
15 hundred dollars per month.

16 * * *

17 **C. An aggrieved party affected by the commissioner's decision, act, or**
18 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
19 **22:2191 et seq.**

20 * * *

21 §2090. Powers and duties of the commissioner

22 * * *

23 B. The commissioner may suspend or revoke, after ~~notice and hearing~~,
24 **compliance with R.S. 49:961**, the certificate of authority to transact insurance in this
25 state of any member insurer who fails to pay an assessment when due or fails to
26 comply with the plan of operation. As an alternative, the commissioner may also
27 levy a fine on any member insurer who fails to pay an assessment when due. The
28 fine shall not exceed five percent of the unpaid assessment per month, but no fine
29 shall be less than one hundred dollars per month.

* * *

§2147. Plan of operation

A.

* * *

(2) If the consortium fails to submit a suitable plan of operation within one hundred twenty days following September 30, 1995, or if at any time thereafter the consortium fails to submit suitable amendments to the plan, the commissioner ~~shall~~, **may**, after notice and **public** hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this Part. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the consortium and approved by the commissioner.

* * *

§2191. Hearings

~~A. The commissioner of insurance, or any qualified employee of the insurance department designated by him for the purpose, may hold a hearing for any purpose within the scope of this Code as he may deem necessary. He~~ **Division of Administrative Law shall hold a hearing in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and** shall hold a hearing:

(1) If required by any provision of this Code; or

(2) Upon written demand for a hearing made by any person aggrieved by any act, ~~threatened act,~~ **order of the commissioner,** or failure of the commissioner of insurance to act, if such failure is deemed an act under any provision of this Code, or by any report, promulgation, or order of the commissioner of insurance other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

~~(a)~~ **B.(1) Any such demand for a hearing shall specify be filed with the Division of Administrative Law and with the commissioner within thirty days after notice of such act or order is mailed, faxed, or delivered to the aggrieved party at his last known address specifying** in what respects such person is so

1 of the time and place thereof and specifying the matters to be considered at the
2 hearing in connection with such insolvency. Notice of any Division of
3 Administrative Law hearing shall be issued by the Division of Administrative
4 Law in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

5 B. ~~In all other cases, the commissioner of insurance shall, not less than ten~~
6 ~~days in advance, give notice to each person to be affected by the hearing of the time~~
7 ~~and place thereof and specifying the matters to be considered at the hearing.~~

8 C. B.(1) ~~If under Subsection B of this Section,~~ notice of a hearing would be
9 required to be given to more than one hundred persons, in lieu of the notice provided
10 for in ~~such~~ Subsection A of this Section and for the purposes of Part IV of Chapter
11 7 of this Title, R.S. 22:1961 et seq., only, the ~~commissioner of insurance~~ Division
12 of Administrative Law may give notice of the hearing by publishing the notice in
13 a daily newspaper in each of the congressional districts of the state at least once each
14 week during the four weeks immediately preceding the week in which the hearing
15 is to be held.

16 (2) Any such published notice shall state the time and place of the hearing
17 and shall specify the matters to be considered ~~thereat~~ at the hearing.

18 * * *

19 §2198. Procedure and subpoena power of commissioner

20 A. ~~The commissioner of insurance, or any insurance department employee~~
21 ~~designated by him for the purpose, shall preside at the hearing and shall keep a true~~
22 ~~and concise record of the proceedings thereat. Formal rules of pleading or evidence~~
23 ~~need not be observed at the hearing.~~

24 B. A. ~~In the conduct of any hearing provided for by this Code, the~~ The
25 commissioner of insurance or other employee designated by him for that purpose,
26 shall have power to compel the attendance of any person by subpoena; at a hearing
27 or investigation proceeding, to administer oaths and to examine any person under
28 oath concerning the business, conduct, or affairs of any company or persons subject
29 to the provisions of this Code, and in connection therewith to require the production

1 of any books, records, or papers relative to ~~the~~ **a hearing, inquiry, , or investigation.**
2 ~~In all cases where witnesses are subpoenaed to attend any hearing under this section,~~
3 ~~they shall be notified by a summons issued and signed by the commissioner of~~
4 ~~insurance, or the insurance department employee designated to conduct such hearing,~~
5 ~~and mailed to them by registered mail, or which shall be served upon them when~~
6 ~~deemed necessary, by the sheriff of the parish where they reside or where they may~~
7 ~~be found, the same as in cases of service of a notice to a witness in a civil~~
8 ~~proceeding.~~

9 (1) **B.** If a person subpoenaed to attend such hearing, **proceeding, or**
10 **investigation** fails to obey the command of the subpoena without reasonable excuse,
11 or if a person in attendance upon such inquiry shall without reasonable cause, refuse
12 to be sworn or to be examined or to answer a question or to produce a book or paper
13 when ordered to do so by the person conducting such hearing, or if any person fails
14 to perform any act required hereunder to be performed, he shall be required to pay
15 a penalty of not less than one hundred dollars nor more than two thousand dollars at
16 the discretion of the court, to be recovered in the name of the people of the State of
17 Louisiana by the district attorney of the parish in which the violation occurs, and the
18 penalty so recovered, less costs of court and expenses of the district attorney to be
19 fixed by the court, shall be paid to the office of the commissioner of insurance.

20 (2) **C.** When any person neglects or refuses without reasonable cause to obey
21 a subpoena issued by the commissioner of insurance, or refuses without reasonable
22 cause to testify, or to be sworn or to produce any book or paper described in the
23 subpoena, the commissioner may file a petition against such person in the district
24 court of the parish in which the testimony is desired to be or has been taken or has
25 been attempted to be taken, briefly setting forth the fact of such refusal or neglect
26 and attaching a copy of the subpoena and the return of service thereon and applying
27 for an order requiring such person to attend, testify, or produce the books or papers
28 before the commissioner or the employee designated by him to hold a hearing, at
29 such time or place as may be specified in such order. Such court, either during the

1 term of court or vacation, upon filing of such petition, either before or after notice
2 to such person, may, in the judicial discretion of such court, order the attendance of
3 such person, the production of books and papers, and the giving of testimony before
4 the commissioner or the person designated by him to conduct a hearing. If such
5 person shall fail or refuse to obey the order of the court and it shall appear to the
6 court that the failure or refusal of such person to obey its order is willful, and without
7 lawful excuse, the court shall punish such person by fine or imprisonment in the
8 parish jail, or both, as the nature of the case may require, as is now, or as may
9 hereafter be lawful for the court to do in cases of contempt of court.

10 ~~(3)~~ **D.** The fees of witnesses for attendance and travel shall be the same as
11 the fees of witnesses before the parish courts of this state. When a witness is
12 subpoenaed by, or testifies at the instance of the commissioner or other person
13 designated by him, such fees shall be paid in the same manner as other expenses of
14 the insurance department. When a witness is subpoenaed or testifies at the instance
15 of any other party to such hearing, the cost of the subpoena, subpoena duces tecum
16 and the fee of the witness shall be borne by the party at whose instance the witness
17 is summoned. ~~In such case, the insurance department, in its discretion, may require~~
18 ~~a deposit to cover the cost of such service and witness fees.~~

19 ~~C. At the expense of and at the written request reasonably made by any~~
20 ~~person affected by the hearing, the commissioner of insurance or the person~~
21 ~~designated by him to hold the hearing, shall cause a full stenographic record of the~~
22 ~~proceedings to be made by a competent stenographic reporter and if transcribed, such~~
23 ~~records shall be made a part of the record of the commissioner of insurance of the~~
24 ~~hearing.~~

25 ~~D. The commissioner of insurance, or such person conducting the hearing,~~
26 ~~shall allow any person affected by the hearing to be present during the giving of all~~
27 ~~testimony and shall allow him a reasonable opportunity to inspect all documentary~~
28 ~~evidence, to examine witnesses, and to present evidence in support of his interests.~~
29 ~~Upon good cause shown, the officer conducting the hearing may permit any person~~

1 ~~to intervene, appear, and be heard at the hearing.~~

2 ~~E. Any person heard shall make full disclosure of facts pertinent to the~~
3 ~~subject of inquiry as requested by the person holding the hearing or by any person~~
4 ~~affected by the hearing.~~

5 * * *

6 §2204. Stay of action on review

7 A. ~~The filing of such a petition~~ **A demand for a hearing or a hearing**
8 **proceeding** shall not stay any **order issued by the commissioner or stay any** action
9 taken or proposed to be taken by the commissioner of insurance under **the act** or
10 order complained of unless a stay is granted by the court **Division of Administrative**
11 **Law** at a hearing held as part of the proceedings: **in accordance with the**
12 **Administrative Procedure Act, R.S. 49:950. Any stay must be requested by the**
13 **party seeking a hearing.**

14 B. A stay shall not be granted by the court **Division of Administrative Law**
15 in any case where the granting of a stay would tend to injure the public interest. In
16 granting a stay, the court may require of the person taking the action such security
17 or other conditions as it deems proper: **and in accordance with the Administrative**
18 **Procedure Act.**

19 ~~C. If the order complained of is one suspending, revoking, or refusing to~~
20 ~~renew an agent's, broker's, or solicitor's license, the person taking the action, by~~
21 ~~filing a bond with the clerk of the court, subject to approval of the court, conditioned~~
22 ~~to pay all costs that may be awarded against him, may, if filed prior to the effective~~
23 ~~date of such order, supersede the order complained of until the final determination~~
24 ~~of the case. The court shall determine the amount of the bond by considering the~~
25 ~~severity of the charges or the amount of money allegedly involved in such charges.~~

26 §2205. Appeal to proper appellate court

27 ~~An appeal may be taken to the proper appellate court as in civil actions from~~
28 ~~a judgment of the district court made pursuant to any provisions of this Chapter.~~
29 ~~Such appeal shall be advanced upon the trial calendar of the appellate court and be~~

1 heard at the earliest convenient date. **All appeals from a decision of the Division**
2 **of Administrative Law shall be in accordance with the Administrative**
3 **Procedure Act, R.S. 49:950 et seq.**

4 §2206. Use of injunctive process

5 The **Notwithstanding any law to the contrary, the** commissioner is
6 empowered, ~~also,~~ to seek the enforcement of any lawful written order ~~made pursuant~~
7 ~~to R.S. 22:2199,~~ or to secure the prevention or discontinuance of any violation of a
8 prohibitory or mandatory licensing provision of this Code by legal action for
9 injunction which may be filed in the district court in either the parish of East Baton
10 Rouge or the parish in which the offender is domiciled, and he shall be represented
11 in such actions by the attorney general or the attorney for his department, if such
12 there is.

13 * * *

14 §2208. Administrative hearings

15 As provided in Chapter 13-B of Title 49 of the Louisiana Revised Statutes
16 of 1950, the Division of Administrative Law shall conduct any ~~adjudications~~
17 **hearings** required by any provision of this Chapter.

18 * * *

19 §2242. Authorization to develop pilot programs

20 * * *

21 C. For the purpose of making health insurance coverage available to
22 individuals who lose coverage as a result of their employer going out of business and
23 terminating a health benefits plan and who are eligible for the Health Coverage Tax
24 Credit under federal law, the Department of Insurance shall administer the federal
25 Health Coverage Tax Credit program to ensure access of affordable health insurance
26 for eligible individuals. To accomplish such purpose the department:

27 * * *

28 (3) The commissioner may, ~~after notice and hearing,~~ promulgate such rules
29 and regulations as may be necessary or proper to carry out the provisions of this Part

1 and the provisions of R.S. 22:1201 through 1215. Such rules and regulations shall
2 be promulgated and adopted in accordance with the Administrative Procedure Act,
3 **R.S. 49:950 et seq.**

4 * * *

5 §2381. Interstate Insurance Product Regulation Compact; Louisiana's participation
6 The Interstate Insurance Product Regulation Compact, the full text of which
7 is set forth and confirmed by the Louisiana Legislature, is hereby entered into on
8 behalf of the state of Louisiana. The compact shall become effective when enacted
9 into law by at least two states. The full text of said compact is as follows:

10 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

11 * * *

12 ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT

13 * * *

14 (4) The Commissioner of any State in which an Insurer is authorized to do
15 business, or is conducting the business of insurance, shall continue to exercise his or
16 her authority to oversee the market regulation of the activities of the Insurer in
17 accordance with the provisions of the State's law. The Commissioner's enforcement
18 of compliance with the Compact is governed by the following provisions:

19 (a) With respect to the Commissioner's market regulation of a Product or
20 Advertisement that is approved or certified to the Commission, the content of the
21 Product or Advertisement shall not constitute a violation of the provisions, standards,
22 or requirements of the Compact except upon a final order of the Commission, issued
23 at the request of a Commissioner after prior notice to the Insurer and an opportunity
24 for **public** hearing before the Commission.

25 * * *

26 §2401. Regulations

27 The commissioner may, ~~after notice and hearing,~~ promulgate such rules and
28 regulations as may be necessary or proper to carry out the provisions of this Chapter.
29 The rules and regulations shall be promulgated and adopted in accordance with the

1 Administrative Procedure Act, **R.S. 49:950 et seq.**

2 * * *

3 §2422. Suspension or revocation of certificate of authority; hearings

4 * * *

5 **C. An aggrieved party affected by the commissioner's decision, act, or**
6 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
7 **22:2191 et seq.**

8 Section 2. R.S. 22:2192, 2196, and 2199 through 2203 are hereby repealed in their
9 entirety.

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

DIGEST

Present law, the Administrative Procedure Act, requires the Division of Administrative Law (DAL) to hold all administrative hearings concerning certain state departments' orders or acts, including acts relative to licensure and the imposition of fines. Includes the Department of Insurance (DOI) among such departments. Generally provides that whenever the department or its commissioner issues an order or acts, any aggrieved party may file an appropriate demand for review of such act or order at an administrative hearing to be held by the DAL. Makes decisions or orders by DAL appealable to the district court of the parish in which the department is located.

Present law, the La. Insurance Code, has not been consistently amended to reflect present law, the Administrative Procedure Act, requiring administrative hearings for DOI to be held by DAL. Instead provides that the department and its commissioner hold such administrative hearings on their own acts or orders and specifies procedures for such.

Proposed law changes the inconsistent provisions of present law, the La. Insurance Code Act, to accurately reflect present law, the Administrative Procedure Act, requiring administrative hearings for DOI to be held by DAL. However, retains the authority of the DOI and its commissioner to hold certain public hearings on matters such as procedures for hearings on rules and regulations, acquisition of control or merger of a domestic insurer, conversion of mutual insurers and mutual insurance holding companies, ratemaking, or approval of the plan of operation of the La. Consortium of Insurance and Financial Services.

Proposed law further specifically provides that a demand for a hearing by an aggrieved party shall be filed with DAL and the commissioner of insurance within 30 days after notice of the act or order is mailed, faxed, or delivered to the aggrieved party at his last known address. Requires that the aggrieved in his demand reference the particular sections of the statutes and rules involved, provide a short and plain statement of matters asserted for review, and attach a copy of any order or decision of the commissioner for review. Further provides that a demand for an administrative hearing shall not stay any order issued by the commissioner unless a stay is granted by DAL upon request of the party seeking the hearing. Requires DAL to designate the hearing place and issues notice for its hearings. However, retains the authority of the commissioner of insurance to issue subpoenas relative to investigations or use of the injunctive process.

Effective August 15, 2009.

(Amends R.S. 22:14(B), 16, 18(A), 33(A)(intro para), 35(C), 72(B), 88(E), (I), and (O), 236.4(C) and (E), 255, 259, 264, 267(D), 310, 337(B), 369, 371, 389, 391, 457(C), 584(D)(1)(b), 588(A)(1), 590(B), 595, 613(A)(3), (C)(2), and (D)(3)(b), 614(A)(9) and (C)(2), 615(A)(5), 616(A)(3), 634(A)(3), (C)(2), and (D)(2), 635(A)(3), (7),and (9) and (C)(2), 636(A)(3) and (5), 637(A)(3), 638(intro para), 656(B), 661, 674(A)(3) and (B), 694(D)(1)(intro para), 709(A), (B), and (C), 731(D), 732(A) and (C), 821(G), 833(C)(3), 855(E)(1), 972(A) and (B), 974, 1071(C)(3)(d), 1141, 1143(A)(intro para) and (B)(intro para), 1211(B), 1451(E), 1453(A)(1), 1465(A)(3)(a), (B), and (C), 1466(A), (B), (D), and (E), 1469(A), 1470(B), 1471(C), 1529(A), 1546(B)(1)(d), 1547(G), 1549(G), 1550(G), 1554(B), (C), and (D), 1559(G), 1571(H), 1627(A)(intro para), 1671(C), 1672(B) and (C), 1699(B), 1700(C), (D), and (E), 1731(A)(intro para), 1793(C), 1837(A)(intro para) and (B)(intro para), 1860(A)(intro para), and (B)(intro para), 1968, 1969, 1970, 1995(B), 2060(B)(2), 2090(B), 2147(A)(2), 2191, 2193, 2194, 2198, 2204, 2205, 2206, 2208, 2242(C)(3), Article VIII(4)(a) of R.S. 22:2381, and R.S. 22:2401; adds R.S. 22:33(D), 588(C), 694(D)(4), 709(E), 731(F), 833(D), 1143(D), 1211(C), 1453(D), 1471(E), 1472(C), 1529(C), 1549(K), 1550(K), 1837(C), 1860(C), 2060(C), and 2422(C); repeals R.S. 22:2192, 2196, and 2199- 2203)