

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 177 By Senator Martiny**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

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

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Deletes the requirement for a hearing when the commissioner decides to extend the period of administrative supervision of an insurer. Also deletes language from proposed law which would have required that due notice of this decision be in accordance with the Administrative Procedure Act.
2. Deletes language from proposed law which would have provided that all information in the possession of the commissioner relative to administrative supervision of an insurer is confidential except as otherwise provided by the Administrative Procedure Act.
3. Adds language, with respect to the rate making procedures conducted by the commissioner of insurance, that in the process of determining if there exists a competitive or noncompetitive market the hearing that the commissioner may require be a public hearing.
4. Adds language requiring that the hearing conducted by the commissioner of insurance in connection with a determination that a person has violated the provisions of the law relative to managing general agents be conducted in accordance with the Administrative Procedure Act.
5. Technical amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

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, 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.

Present law provides that when an insurer has been placed in administrative supervision, the commissioner may extend the period of supervision if he makes that determination after due notice and proper hearing.

Proposed law deletes the requirement for a hearing; otherwise retains present law.

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)(intro para), (3), (7), and (9) and (C)(2), 636(A)(3) and (5), 637(A)(intro para) and (A)(3), 638(intro para), 656(B), 661, 674(A)(3) and (B), 694(D)(1)(intro para), 709(A)(intro para) and (B), and (C), 731(D), 732(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), 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)

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