

SENATE BILL NO. 177

BY SENATOR MARTINY

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

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AN ACT

To amend and reenact R.S. 22:14(B), 16, 18(A), 33(A)(introductory paragraph), 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)(introductory paragraph) and (3), (C)(2), and (D)(2), 635(A)(introductory paragraph)(3), (7), and (9) and (C)(2), 636(A)(introductory paragraph) and (3) and (5), 637(A)(introductory paragraph) and (A)(3), 638(introductory paragraph), 656(B), 661, 674(A)(3) and (B), 694(D)(1)(introductory paragraph), 709(A), (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)(introductory paragraph) and (B)(introductory paragraph), 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)(introductory paragraph), 1671(C), 1672(B) and (C), 1699(B), 1700(C), (D), and (E), 1731(A)(introductory paragraph), 1793(C), 1837(A)(introductory paragraph) and (B)(introductory paragraph), 1860(A)(introductory paragraph) and (B)(introductory paragraph), 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, to enact 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), and to repeal R.S. 22:2192, 2196, and 2199 through 2203, relative to the Department of Insurance; to provide with respect to administrative hearings for that department held

1 by the Division of Administrative Law; to provide for public hearings held by that
2 department; to make certain technical changes; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 22:14(B), 16, 18(A), 33(A)(introductory paragraph), 35(C), 72(B),
5 88(E), (I), and (O), 236.4(C) and (E), 255, 259, 264, 267(D), 310, 337(B), 369, 371, 389,
6 391, 457(C), 584(D)(1)(b), 588(A)(1), 590(B), 595, 613(A)(3), (C)(2), and (D)(3)(b),
7 614(A)(9) and (C)(2), 615(A)(5), 616(A)(3), 634(A)(introductory paragraph) and (3), (C)(2),
8 and (D)(2), 635(A)(introductory paragraph) and (3), (7) and (9) and (C)(2),
9 636(A)(introductory paragraph) and (3) and (5), 637(A)(introductory paragraph) and (A)(3),
10 638(introductory paragraph), 656(B), 661, 674(A)(3) and (B), 694(D)(1)(introductory
11 paragraph), 709(A), (B), and (C), 731(D), 732(C), 821(G), 833(C)(3), 855(E)(1), 972(A) and
12 (B), 974, 1071(C)(3)(d), 1141, 1143(A)(introductory paragraph) and (B)(introductory
13 paragraph), 1211(B), 1451(E), 1453(A)(1), 1465(A)(3)(a), (B), and (C), 1466(A), (B), (D),
14 and (E), 1469(A), 1470(B), 1471(C), 1529(A), 1546(B)(1)(d), 1547(G), 1549(G), 1550(G),
15 1554(B), (C), and (D), 1559(G), 1571(H), 1627(A)(introductory paragraph), 1671(C),
16 1672(B) and (C), 1699(B), 1700(C), (D), and (E), 1731(A)(introductory paragraph),
17 1793(C), 1837(A)(introductory paragraph) and (B)(introductory paragraph),
18 1860(A)(introductory paragraph) and (B)(introductory paragraph), 1968, 1969, 1970,
19 1995(B), 2060(B)(2), 2090(B), 2147(A)(2), 2191, 2193, 2194, 2198, 2204, 2205, 2206,
20 2208, 2242(C)(3), and R.S. 22:2401 are hereby amended and reenacted and R.S. 22:33(D),
21 588(C), 694(D)(4), 709(E), 731(F), 833(D), 1143(D), 1211(C), 1453(D), 1471(E), 1472(C),
22 1529(C), 1549(K), 1550(K), 1837(C), 1860(C), 2060(C), and 2422(C) are hereby enacted
23 to read as follows:

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

25 * * *

26 B. Whenever the commissioner of insurance, a state agency, or law
27 enforcement agency conducts an investigation based upon a written sworn report or
28 with the participation of an employee as provided in this Section, it may not disclose
29 the identity of the employee without the employee's consent. If it is determined that
30 such disclosure is required for an administrative proceeding or criminal prosecution

1 based upon the findings of the investigation, then the person or entity conducting the
2 investigation shall notify the employee prior to disclosure of the employee's identity.
3 Any ~~proceeding or hearing by the commissioner of insurance~~ under this Section shall
4 be conducted in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

5 * * *

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

7 If any insurance company or rating organization fails to comply with a
8 written directive or order issued by the commissioner of insurance pursuant to this
9 Subpart within thirty days of the issuance thereof, the commissioner may levy and
10 receive a fine of up to twenty-five thousand dollars. ~~The~~ If a hearing has been
11 requested by the insurance company or rating organization, the penalty shall not
12 be imposed until such time ~~that~~ as the commissioner division of administrative law
13 makes a finding and issues an order that the penalty is warranted in a proper
14 hearing, held in the manner provided in Chapter 12 of this Title, R.S. 22:2191 et seq.

15 * * *

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

17 A. The commissioner of insurance may, as a penalty, in accordance with
18 R.S. 49:961, refuse to renew, or may suspend, or revoke the certificate of authority
19 of any insurer violating any of the provisions of this Code, or in lieu of suspension
20 or revocation of a license duly issued, the commissioner may levy a fine not to
21 exceed one thousand dollars for each violation per insurer, up to one hundred
22 thousand dollars aggregate for all violations in a calendar year per insurer, when such
23 violations, ~~in his opinion, after a proper hearing,~~ warrant the refusal, suspension, or
24 revocation of such certificate, or the imposition of the fine. ~~The commissioner of~~
25 ~~insurance is authorized to withhold fines imposed under this Section. Such hearing~~
26 ~~shall be~~ An aggrieved party affected by the commissioner's decision, act, or
27 order may demand a hearing in accordance with Chapter 12 of this Title, R.S.
28 22:2191 et seq. If the insurer has demanded a timely hearing, the penalty or fine
29 ordered by the commissioner shall not be imposed until such time as the
30 division of administrative law makes a finding that the penalty or fine is

1 warranted in a proper hearing, held in the manner provided in Chapter 12 of this
2 Title.

3 * * *

4 §33. Sanctions

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

12 * * *

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

16 * * *

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

18 * * *

19 C. The commissioner of insurance shall promulgate rules and regulations
20 necessary for the enforcement of this Section. The rules and regulations shall, at a
21 minimum, provide a mechanism in which complaints concerning alleged
22 discriminatory practices by insurers can be received and investigated. The rules and
23 regulations shall also contain a provision allowing for an administrative hearing in
24 accordance with the Administrative Procedure Act, R.S. 49:950 et seq., prior to the
25 imposition of the penalty outlined in Subsection B of this Section.

26 * * *

27 §72. Stock and mutual conversions

28 * * *

29 B. The commissioner of insurance shall not approve any such conversion
30 unless in his opinion after a full investigation, ~~and hearing if he deems it necessary,~~

1 the best interests of the policyholders of any such insurer will be served.

2 * * *

3 §88. Sales of stock

4 All sales of stock as defined in this Section shall be made in accordance with
5 the following regulations:

6 * * *

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

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

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

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

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

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

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

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

27 **(3)** The filing of such statement and documents in the office of the
28 commissioner, and the payment of the fee ~~hereinafter~~ provided; **for in this**
29 **Subsection** shall, after being authorized by the commissioner, constitute the
30 registration of such securities. Upon such registration, such securities may be sold

1 in this state by any registered dealer, subject, however, to the further order of the
2 commissioner as ~~hereinafter provided:~~ **in this Subsection.** Every registration under
3 this ~~section~~ **Section** for an insurance company on primary issues of stock shall expire
4 in accordance with the statutory provisions of R.S. 22:85. Every registration under
5 this ~~section~~ **Section** for an investment or holding company, or on issued and
6 outstanding shares of stock of an insurance company, shall expire on December
7 thirty-first of each year, but new registrations for the succeeding period or
8 succeeding year, as the case may be, shall be issued upon written application and
9 upon payment of the fee as ~~hereinafter provided:~~ **in this Subsection.**

10 **(4)** If, at any time in the opinion of the commissioner, the information
11 contained in the statement, circular, or prospectus filed is, or has become,
12 misleading, incorrect, inadequate, or incomplete, or the sale or offering for sale of
13 the security as defined in this ~~section~~ **Section** may work or tend to work a fraud, the
14 commissioner may require from the person filing such statement such further
15 information as may in his judgment be necessary to establish the classification of
16 such security as claimed in said statement, or to enable the commissioner to ascertain
17 whether other steps should be taken and the registration rejected or revoked on any
18 ground ~~hereinafter specified;~~ **in Subsection F of this Section** and the commissioner
19 may refuse to register or suspend the right to sell such security pending further
20 investigation by entering an order specifying the grounds for such action, and by
21 notifying by mail, or personally, or by telephone confirmed in writing, or by
22 telegraph, the person filing such a statement and documents, and every registered
23 dealer who shall have notified the commissioner of an intention to sell such security.
24 The refusal to furnish information required by the commissioner within a reasonable
25 time to be fixed by the commissioner may be a proper ground for the entry of such
26 order of suspension. The commissioner shall notify every registered dealer of such
27 order and upon the entry of any such order of suspension no further sales of such
28 security shall be made until the further order of the commissioner.

29 **(5)** In the event of the entry of such order of rejection or suspension, ~~the~~
30 ~~commissioner shall, upon request, give~~ **the aggrieved party may demand** a prompt

1 hearing in accordance with Chapter 12 of this Code to the parties interested. **Title,**
2 **R.S. 22:2191 et seq.** If no hearing is **timely** requested within a period of twenty days
3 from the entry of such order, or, if upon such hearing the commissioner shall
4 determine that any such security is not entitled to registration under this section, or
5 that the sale thereof should be revoked on any ground hereinafter specified, ~~he~~ **the**
6 **commissioner** shall enter a final order prohibiting sales of such security, with his
7 findings with respect thereto. Until the entry of such final order, the rejection or
8 suspension of the right to sell, though binding upon the persons notified thereof, shall
9 be deemed confidential, and shall not be published, unless it shall appear that the
10 order of suspension has been violated after notice. ~~Appeals from such final order~~
11 ~~may be taken as hereinafter provided.~~ If, however, upon such **a** hearing the
12 ~~commissioner~~ **division of administrative law** shall find that the security being
13 offered for sale will neither be fraudulent nor result in fraud, ~~he~~ **the commissioner**
14 shall forthwith enter an order revoking such order of suspension and such security
15 shall be restored to its status as a security registered under this section **Section** as of
16 the date of such order of suspension.

17 **(6)** At the time of filing the statement and documents ~~hereinabove~~
18 enumerated; **in this Subsection** and upon re-registration, the applicant shall pay to
19 the commissioner a fee of one-twentieth of one ~~per centum~~ **percent** of the aggregate
20 price of such securities to be sold in this state, for which the applicant is seeking
21 registration, but in no case shall such fee be less than twenty-five dollars or more
22 than two hundred dollars. The commissioner of insurance is authorized to withhold
23 the funds collected under this section **Section** to defray the expenses actually and
24 necessarily incurred by him for salaries and expenses in carrying out the purposes
25 of this section. **Section.**

26 * * *

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

28 **(1)** Registration under Subsection H of this Section may be refused or any
29 registration granted may be revoked by the commissioner if after a reasonable notice
30 and a hearing the commissioner determines that such applicant or registrant so

1 registered **has committed any of the following acts:**

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

4 (2) **(b)** Has made a material false statement in the application for
5 registration, ~~or~~ .

6 (3) **(c)** Has been guilty of a fraudulent act in connection with any sale of
7 securities as defined in this Section, or has been or is engaged or is about to engage
8 in making fictitious or pretended sales or purchases of any such securities or has
9 been or is engaged or is about to engage in any practice or sale of such securities
10 which is fraudulent or in violation of the law, ~~or~~ .

11 (4) **(d)** Has demonstrated his unworthiness to transact the business of dealer
12 or salesman.

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

15 ~~Pending the hearing the commissioner shall have the power to order the~~
16 ~~suspension of such dealer's or salesman's registration, provided such order shall state~~
17 ~~the cause for such suspension, and provided further, that such hearing shall be held~~
18 ~~within ten days from the date of such suspension. Failure of the commissioner to~~
19 ~~hold such a hearing within such time shall constitute complete restoration of the~~
20 ~~registration of the dealer or salesman involved.~~

21 **(3) The aggrieved party whose registration is refused or revoked may**
22 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
23 **seq. Notwithstanding any law to the contrary, if a hearing is timely requested**
24 **by the aggrieved party, the commissioner's order or act shall be stayed until the**
25 **decision of the division of administrative law is issued. The commissioner may**
26 **seek an expedited hearing before the division of administrative law to suspend**
27 **the registration, pending the outcome of the main hearing.**

28 (4) Until the entry of a final order ~~the~~ **by the division of administrative law,**
29 **any** suspension of such dealer's registration, though binding upon the persons
30 notified thereof, shall be deemed confidential, and shall not be published unless it

1 shall appear that the order of suspension has been violated after notice.

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

7 (6) It shall be sufficient cause for refusal or cancellation of registration in
8 case of a partnership or corporation or any unincorporated association, if any
9 member of a partnership or any officer or director of the corporation or association
10 has been guilty of any act or omission which would be cause for refusing or revoking
11 the registration of an individual dealer or salesman.

12 * * *

13 O. Appeals. An appeal **from the division of administrative law** may be
14 taken by ~~any person interested from any final order of the commissioner to the~~
15 ~~district court of the parish of East Baton Rouge by filing a petition therein against the~~
16 ~~commissioner, officially as defendant, within twenty days after notice of the entry~~
17 ~~of such order and stating in said petition the grounds upon which a reversal of such~~
18 ~~final order is sought. Such petition may be accompanied by a demand upon the~~
19 ~~commissioner for a certified transcript of the record and of all papers on file in his~~
20 ~~office affecting or relating to such order, and such demand may be granted by the~~
21 ~~court and an order may be issued by the court ordering the production of a transcript~~
22 ~~of such records upon the furnishing of bond by the plaintiff, with good and sufficient~~
23 ~~security, to be approved by the court, conditioned upon the faithful prosecution of~~
24 ~~such action to final judgment and upon the payment of all costs including costs of~~
25 ~~making such transcript. Thereupon, the commissioner shall within ten days make,~~
26 ~~certify and file with the clerk of said court such a transcript, or in lieu thereof, the~~
27 ~~original papers if the court shall so order; such suit shall be given preference by the~~
28 ~~court over all matters pending in said court. The court shall receive and consider the~~
29 ~~evidence, both oral and documentary concerning the order of the commissioner~~
30 ~~objected to by the plaintiff. If the order of the commissioner shall be reversed, the~~

1 court shall enter such judgment, order and decree as the equities and exigencies may
 2 require, directing the commissioner as to his further action in the matter, including
 3 the making and entering of any order or orders in connection therewith, and the
 4 conditions, limitations and restrictions to be therein contained, provided that the
 5 commissioner shall not thereby be barred from thereafter revoking or altering such
 6 order for any proper cause which may thereafter accrue or be discovered. If said
 7 order shall be affirmed, the plaintiff shall not be barred after thirty days from filing
 8 a new application, provided such new application is not otherwise barred or limited.
 9 The court shall not in any wise suspend the operation of any order of the
 10 commissioner during the pendency of the action. Mere technical irregularities in the
 11 procedure of the commissioner shall be disregarded and the burden shall rest on the
 12 plaintiff to prove his rights to a reversal of the order of the commissioner. A
 13 devolutive appeal may be taken from the judgment of the district court on the same
 14 terms and conditions as an appeal is taken in other civil actions. the aggrieved
 15 person in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

* * *

§236.4. Approval by commissioner after public hearing

* * *

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

* * *

30 E.(1) ~~Except as otherwise provided in this Section, the procedures and~~

1 requirements for the order and any appeal thereof shall be as set forth in Chapter 12
2 of this Title and, to the extent not specified therein, as set forth in Chapter 13 of Title
3 49 of the Louisiana Revised Statutes of 1950: An aggrieved party may appeal the
4 commissioner's final order to the Nineteenth Judicial District Court within
5 thirty days of the order. The aggrieved party may also apply for a stay of the
6 commissioner's order.

7 (†) (2) The district court reviewing an order of the commissioner shall
8 consider only the certified administrative record and the issues raised before the
9 commissioner. The district court reviewing an order of the commissioner shall not
10 modify or set aside the order unless the court finds: (a) error to the prejudice of the
11 appellant's substantial rights arising from the commissioner's application of the law
12 so grossly as necessarily to imply bad faith; (b) the commissioner's order or decision
13 was procured by fraud; (c) the commissioner acted outside of the statutory authority
14 of the Department of Insurance; or (d) the commissioner's action was arbitrary and
15 capricious. Any appeal of the district court's review of the commissioner's order
16 shall be taken within thirty days of the judgment of the district court; if not so taken,
17 the right to have an appellate court review or restrain action under the
18 commissioner's order or decision shall be preempted and shall forever expire.
19 Collateral attacks on an order of the commissioner are impermissible and shall be
20 dismissed by the reviewing court.

21 (†) (3) In any action challenging the validity of or arising out of any action
22 taken or proposed to be taken under this Subpart, the reorganizing mutual or
23 reorganized company shall be entitled at any stage of the proceedings before final
24 judgment to petition the court to require the plaintiff or plaintiffs to give security for
25 the reasonable costs, including attorney fees, which may be incurred by the
26 reorganizing mutual or reorganized company, to which security the reorganizing
27 mutual or reorganized company shall have recourse in such amount as the court
28 having jurisdiction of such action shall determine upon termination of such action.
29 The amount of security may thereafter from time to time be increased or decreased
30 in the discretion of the court having jurisdiction of such action upon a showing that

1 the security provided has or may become inadequate or excessive. If the court
2 renders judgment in favor of the reorganizing mutual or reorganized company, the
3 court may in its discretion award attorney fees and costs to such prevailing party.

4 * * *

5 §255. Regulation of agents **producers**

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

14 * * *

15 §259. Administrative procedures

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

25 ~~B. After such hearing, or upon the failure of the health maintenance~~
26 ~~organization to appear at such hearing, the commissioner shall take action as he~~
27 ~~deems advisable and shall issue written findings which shall be sent by certified mail~~
28 ~~to the health maintenance organization. The action of the commissioner shall be~~
29 ~~subject to judicial review by the Nineteenth Judicial District Court, which court shall~~
30 ~~have jurisdiction over any and all legal proceedings arising under this Subpart. The~~

1 court may, in disposing of any issue before it, modify, affirm, or reverse the order
2 of the commissioner in whole or in part.

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

6 * * *

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

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

14 * * *

15 §267. Enrollee grievance procedure

16 * * *

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

24 * * *

25 §310. Injunction; liquidation; receivership of domestic society

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

- 29 (a) Exceeded its powers.
- 30 (b) Failed to comply with any provision of this Subpart.

1 (c) Failed to fulfill its contracts in good faith.

2 (d) Failed to maintain its membership of four hundred or more after an
3 existence of one year or more.

4 (e) Conducted business fraudulently or in a manner hazardous to its
5 members, creditors, the public, or the business.

6 (2) After such notice, the society shall have a thirty day period in which to
7 comply with the commissioner's request for correction. If the society fails to
8 comply, the commissioner shall notify the society of such findings of noncompliance
9 and require the society to show cause at a hearing conducted in accordance with
10 Chapter 12 of this Title, R.S. 22:2191 et seq., why it should not be enjoined from
11 carrying on any business until the violation complained of has been corrected, or
12 why an action should not be commenced against the society under R.S. 22:73 and 96,
13 Subpart H of Part III of this Chapter, 2 R.S. 22:731 et seq., and Chapter 9 of this
14 Title: , R.S. 22:2001 et seq.

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

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

24 ~~D: C. The provisions of this Section relating to a hearing by the~~
25 ~~commissioner of insurance and any action by the commissioner of insurance under~~
26 ~~R.S. 22:73 and 96, Subpart H of Part III of this Chapter, R.S. 22:731 et seq., 2 and~~
27 ~~Chapter 9 of this Title, R.S. 22:2001 et seq., shall be applicable to a society which~~
28 ~~shall voluntarily determine to discontinue business.~~

29 * * *

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

* * *

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

* * *

§369. Revocation or suspension of license

~~A. The~~ **In accordance and compliance with R.S. 49:961, the** commissioner may revoke or suspend any license required by this Subpart ~~after a hearing duly called for that purpose which is conducted pursuant to the provisions of the Administrative Procedure Act contained in Title 49 of the Louisiana Revised Statutes of 1950. Causes for revocation or suspension shall be~~ **should he find any of** the following:

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

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

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

(4) If the insurer refuses to allow inspection provided by R.S. 22:371 ~~370~~.

B. 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.

* * *

§371. Cease and desist order; penalty for violation

A. ~~If a hearing is held pursuant to the provisions of the Administrative Procedure Act in Title 49 of the Louisiana Revised Statutes of 1950 and if the commissioner should determine that the provisions of this Subpart have been violated, the commissioner shall, in addition to the authority to revoke or suspend a~~

1 license as provided in R.S. 22:370 ~~369~~, have the authority to issue an order requiring
2 such person or insurer violating the provisions of this Subpart, to cease and desist
3 from such method, act, or practice. ~~A written record shall be made of the~~
4 ~~commissioner's findings.~~ **An aggrieved party affected by the commissioner's**
5 **decision, act, or order may demand a hearing in accordance with Chapter 12 of**
6 **this Title, R.S. 22:2191 et seq.**

7 B. If, after issuing such cease and desist order, **no hearing is demanded by**
8 **the aggrieved party or after a final order from the division of administrative**
9 **law is issued withholding the commissioner's order,** such person or insurer
10 continues to violate the provisions of this Subpart, the commissioner may seek the
11 enforcement of such order by civil legal action filed in the ~~district court for the parish~~
12 ~~of East Baton Rouge~~ **Nineteenth Judicial District Court.** Any person who violates
13 a cease and desist order ~~of the commissioner~~ after it has become final and while such
14 order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and
15 pay to the state of Louisiana a sum not to exceed five hundred dollars, except that,
16 if such violation is found to be willful, the amount of such penalty shall be a sum not
17 to exceed five thousand dollars.

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

21 * * *

22 §389. Revocation or suspension of license

23 **A.** The commissioner may revoke or suspend any license required by this
24 Subpart ~~after a hearing duly called for that purpose conducted pursuant to the~~
25 ~~provisions of the Administrative Procedure Act contained in Title 49 of the~~
26 ~~Louisiana Revised Statutes of 1950~~ **in accordance and compliance with R.S.**
27 **49:961.** Any license issued under the provisions of this Subpart shall be revoked or
28 suspended for the following causes:

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

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

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

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

5 **B. 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 * * *

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

10 A. ~~Following a hearing held pursuant to the provisions of the Administrative~~
11 ~~Procedure Act, if~~ **If** the commissioner determines that the provisions of this Subpart
12 have been violated, he shall, in addition to the authority to revoke or suspend a
13 license as provided in R.S. 22:389, have the authority to issue an order requiring
14 such person or insurer violating the provisions of this Subpart, to cease and desist
15 from such method, act, or practice. ~~A written record shall be made of the~~
16 ~~commissioner's findings.~~ **An aggrieved party affected by the commissioner's**
17 **decision, act, or order may demand a hearing in accordance with Chapter 12 of**
18 **this Title, R.S. 22:2191 et seq.**

19 B. ~~If, after issuing such cease and desist order,~~ **no hearing is demanded by**
20 **the aggrieved party or after a final order from the division of administrative**
21 **law is issued upholding the commissioner's order,** such person or insurer
22 continues to violate the provisions of this Subpart, the commissioner may seek the
23 enforcement of such order by civil legal action filed in the Nineteenth Judicial
24 District Court for the parish of East Baton Rouge. Any person who violates a cease
25 and desist order of the commissioner after it has become final and while such order
26 is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay
27 to the state of Louisiana a sum not to exceed five hundred dollars, except that, if such
28 violation is found to be willful, the amount of such penalty shall be a sum not to
29 exceed five thousand dollars.

30 C. ~~The commissioner may issue a cease and desist order for violation of R.S.~~

1 ~~22:382 pending compliance with the Administrative Procedure Act as provided in~~
2 ~~this Section.~~

3 * * *

4 §457. Agents; acting for unauthorized self-insurer prohibited

5 * * *

6 C. ~~The~~ **After ten days' notice, the** commissioner may revoke, suspend, or
7 refuse to renew ~~an agent's, broker's, or solicitor's~~ **a producer's** license, or may levy
8 a fine not to exceed two thousand five hundred dollars against ~~an agent, broker, or~~
9 solicitor **a producer** who, ~~after notice and hearing,~~ has been found by the
10 commissioner to have violated the provisions of this Section. **An aggrieved party**
11 **affected by the commissioner's decision, act, or order may demand a hearing in**
12 **accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.**

13 * * *

14 §584. Investments in securities

15 * * *

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

20 (1)

21 * * *

22 (b) Such insurers shall not invest more than five percent of its admitted
23 assets in the shares of any one such manufacturing corporation. Such insurers may
24 acquire the stock or other share capital of another insurer but shall not invest more
25 than fifty percent of said funds, directly or indirectly, in shares of another insurer,
26 nor shall such insurer acquire the whole or any part of the stock or other share capital
27 of another insurer which transacts the same kind or kinds of insurance where the
28 effect of such acquisition may be to substantially lessen competition generally or
29 tend to create a monopoly. Investing in the stocks, bonds, or other evidence of
30 indebtedness of any corporation, a substantial portion of whose funds are invested

1 directly or indirectly in the shares of insurance companies, shall be regarded as
2 investing indirectly in such shares. Whenever the commissioner of insurance has
3 reason to believe that there is a violation of this Subsection, he shall ~~hold a hearing,~~
4 **conduct an investigation,** and if he shall find that such investment is in violation of
5 this Subsection, he shall cause such insurer to divest itself of such investment within
6 such reasonable time, or such extension thereof, as he shall specify. Any such order
7 of the commissioner of insurance shall be subject to review as provided in Chapter
8 12 of this Title-, **R.S. 22:2191 et seq.**

9 * * *

10 §588. Restriction on acquisition and holding of real property

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

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

20 * * *

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

24 * * *

25 §590. When restrictions not applicable

26 * * *

27 B. The commissioner of insurance, upon application by the insurer, may
28 extend the time for the disposition of such securities, obligations or other assets for
29 such period or periods as he may deem proper on the showing made, if such insurer
30 may suffer materially by the forced sale thereof; ~~and the commissioner of insurance~~

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

4 * * *

5 §595. When investments must comply

6 The investments in securities and real estate of all domestic insurers shall be
7 made to conform to the requirements of this Subpart by not later than 12:00 noon of
8 October 1, 1953, but the commissioner of insurance may, on application by the
9 insurer, extend the time for such conformance for such period or periods as he may
10 deem proper on the showing made, if he is satisfied that such insurer will suffer
11 materially by the forced sale of any securities or property not conforming; ~~and the~~
12 ~~commissioner of insurance shall grant a hearing to the insurer upon request.~~ **An**
13 **aggrieved party affected by the commissioner's decision, act, or order may**
14 **demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et**
15 **seq.**

16 * * *

17 §613. Company-action level event

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

19 * * *

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

23 * * *

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

25 * * *

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

28 D.

29 * * *

30 (3) Upon notification from the department, the insurer shall prepare a revised

1 risk-based capital plan that may incorporate any revisions proposed by the
2 department. The insurer shall submit the revised risk-based capital plan to the
3 department:

4 * * *

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

7 * * *

8 §614. Regulatory-action level event

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

10 * * *

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

14 * * *

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

21 * * *

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

25 * * *

26 §615. Authorized-control level event

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

28 * * *

29 (5) If the insurer has disputed a corrective order pursuant to R.S. 22:617 and
30 the department has rejected the dispute ~~after an administrative hearing~~ or modified

1 the corrective order, the failure of the insurer to respond to the corrective order in a
2 satisfactory manner subsequent to rejection or modification by the department.

3 * * *

4 §616. Mandatory-control level event

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

6 * * *

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

11 * * *

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

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

15 * * *

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

20 * * *

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

22 * * *

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

27 D. Within sixty days after the submission by a health organization of a risk-
28 based capital plan to the commissioner, the commissioner shall notify the health
29 organization whether the risk-based capital plan shall be implemented or is, in the
30 judgment of the commissioner, unsatisfactory. If the commissioner determines the

1 risk-based capital plan is unsatisfactory, the notification to the health organization
2 shall set forth the reasons for the determination and may set forth proposed revisions
3 which will render the risk-based capital plan satisfactory, in the judgment of the
4 commissioner. Upon notification from the commissioner, the health organization
5 shall prepare a revised risk-based capital plan, which may incorporate by reference
6 any revisions proposed by the commissioner, and shall submit the revised risk-based
7 capital plan to the commissioner either:

8 * * *

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

13 * * *

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

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

17 * * *

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

22 * * *

23 (7) If, pursuant to R.S. 22:638, the health organization challenges a
24 determination by the commissioner pursuant to Paragraph (6) 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 (9) If, pursuant to R.S. 22:638, the health organization challenges a
29 determination by the commissioner under Paragraph (8) of this Subsection, the
30 notification by the commissioner to the health organization that the commissioner

1 has, ~~after a hearing,~~ rejected the challenge.

2 * * *

3 C. In determining corrective actions, the commissioner may take into
4 account factors the commissioner deems relevant with respect to the health
5 organization based upon the commissioner's examination or analysis of the assets,
6 liabilities, and operations of the health organization, including but not limited to the
7 results of any sensitivity tests undertaken pursuant to the risk-based capital
8 instructions. The risk-based capital plan or revised risk-based capital plan shall be
9 submitted either:

10 * * *

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

16 * * *

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

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

20 * * *

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

25 * * *

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

* * *

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

A. "~~Mandatory control~~ Mandatory-control level event" means any of the following events:

* * *

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

* * *

§638. Hearings

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

demand a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et

seq. The events include:

* * *

§656. Agreements requiring approval

* * *

B. If the commissioner of insurance refuses to approve any such agreement submitted for his approval, ~~he shall grant the insurer a hearing 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.

* * *

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

2 A. The commissioner may adopt, pursuant to the provisions of the
3 Administrative Procedure Act, R.S. 49:950 et seq., rules and regulations to
4 implement any provision of this Subpart.

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

8 * * *

9 §674. Exemptions and filing dates

10 A.

11 * * *

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

16 * * *

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

23 * * *

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

25 * * *

26 D. Approval by commissioner; hearings.

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

* * *

(4) The commissioner may promulgate rules and regulation addressing the process and procedures of the public hearing in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

* * *

§709. Sanctions

A. Any insurer failing, without just cause, to file a registration statement as required in this Subpart shall be required, after ten days notice ~~and hearing,~~ given by the commissioner, to pay a penalty of one hundred dollars for each day's delay, to be recovered by the commissioner, and the penalty so recovered shall be paid into the general revenue fund of this state. The maximum penalty under this Section shall be ten thousand dollars. The commissioner may reduce the penalty if the insurer demonstrates that the imposition of the penalty would constitute a financial hardship to the insurer.

B.(1) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or which violate this Subpart, shall pay, in their individual capacities, a civil forfeiture of not more than one thousand dollars per violation, after ten days notice ~~and hearing before~~ given by the commissioner.

(2) In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

C. Whenever it appears to the commissioner that any insurer subject to this Subpart or any director, officer, employee, or agent thereof has engaged in any transaction or entered into a contract which violates this Subpart, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After ten days notice ~~and hearing,~~ given by the commissioner, the commissioner may also, order the insurer to void any such

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~~ that
11 the conditions which precipitated the administrative supervision still exist, he may
12 extend the period of supervision.

13 * * *

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

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

18 * * *

19 C. The commissioner may open the proceedings ~~or hearings~~, or disclose the
20 notices, correspondence, reports, records, or information to any department, agency,
21 or other instrumentality of the state or of the United States if the opening or
22 disclosure is necessary or proper for the enforcement of the laws of this or any other
23 state of the United States.

24 * * *

25 §821. Fees

26 The following fees and licenses shall be collected in advance:

27 * * *

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

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

2 * * *

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

4 * * *

5 C.

6 * * *

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

15 D. 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 * * *

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

20 * * *

21 E.(1) ~~The commissioner may convene a hearing, pursuant to the provisions~~
22 ~~of Chapter 12 of the Insurance Code, R.S. 22:2191 et seq., and upon~~ Upon making
23 a written finding that an amount in excess of the quoted premium has been received,
24 the commissioner shall issue a written order to the person who received the excess
25 amount to refund it to the person who paid it. Such amount shall be paid within
26 thirty days after the date of the commissioner's order in the matter.

27 * * *

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

29 A. No policy of health and accident insurance shall be delivered or issued
30 for delivery in this state, nor shall any endorsement, rider, or application which

1 becomes a part of any such policy be used in connection therewith until a copy of the
2 form and of the premium rates and of the classifications of risks pertaining thereto
3 have been filed with the commissioner of insurance; nor shall any such policy,
4 endorsement, rider, or application be so used until the expiration of thirty days after
5 the form has been filed unless the commissioner of insurance shall sooner give his
6 written approval thereto. The commissioner of insurance shall notify in writing the
7 insurer which has filed any such form if it does not comply with the provisions of
8 this Subpart, specifying the reasons for his opinion; and it shall thereafter be
9 unlawful for such insurer to issue such form in this state. ~~In such notice, the~~
10 ~~commissioner of insurance shall state that a hearing will be granted within twenty~~
11 ~~days upon written request of the insurer.~~ **An aggrieved party affected by the**
12 **commissioner's decision, act, or order may demand a hearing in accordance**
13 **with Chapter 12 of this Title, R.S. 22:2191 et seq.**

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

26 §974. Standard forms

27 The commissioner of insurance may from time to time, ~~after hearing,~~ **in**
28 **accordance with the Administrative Procedure Act, R.S. 49:950 et seq.,**
29 promulgate such rules and regulations as he deems necessary to establish reasonable
30 minimum standard conditions for basic benefits to be provided by health and

1 accident insurance contracts which are subject to R.S. 22:972, 973, 975-983, 985-
2 990, 992, 993, 999-1014, 1021-1048, 1091-1096, 1111, and 1156, for the purpose
3 of expediting his approval of such contracts pursuant to this Code. No such
4 promulgation shall be inconsistent with standard provisions as required pursuant to
5 R.S. 22:863.

6 * * *

7 §1071. Enforcement provisions

8 * * *

9 C.

10 * * *

11 (3)

12 * * *

13 (d) The entity assessed shall be afforded an opportunity for hearing in
14 accordance with Chapter 12 of **this** Title, ~~22 of the Louisiana Revised Statutes of~~
15 ~~1950, by the commissioner of insurance upon request made within thirty days after~~
16 ~~the date of the issuance of a notice of assessment.~~ **R.S. 22:2191 et seq.**

17 * * *

18 §1141. Regulations

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

23 * * *

24 §1143. Fines; cease and desist orders; grounds for suspension or revocation of
25 licensure or certificate of authority

26 A. Whenever the commissioner has reason to believe that any health
27 insurance issuer or licensed MNRO is not in full compliance with the provisions of
28 this Subpart, he shall notify such person and, ~~after notice and opportunity for hearing~~
29 ~~pursuant to Chapter 12 of this Title, subject to Chapter 13-B of Title 49 of the~~
30 ~~Louisiana Revised Statutes of 1950,~~ the commissioner shall, **in accordance and**

1 compliance with R.S. 49:961, issue and cause to be served an order requiring the
2 health insurance issuer or MNRO to cease and desist from any violation and order
3 any one or more of the following:

4 * * *

5 B. Any health insurance issuer or licensed MNRO who violates a cease and
6 desist order issued by the commissioner pursuant to this Subpart while such order is
7 in effect shall, ~~after notice and opportunity for hearing~~, be subject at the discretion
8 of the commissioner to any one or more of the following:

9 * * *

10 D. 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 §1211. Powers and duties of the commissioner

15 * * *

16 B. The commissioner may suspend or revoke, ~~after notice and hearing~~, in
17 accordance and compliance with R.S. 49:961, the certificate of authority to
18 transact insurance in this state of any participating insurer who fails to pay assessed
19 fees when due or fails to comply with the plan of operation. As an alternative, the
20 commissioner may levy a fine on any participating insurer who fails to pay an
21 assessed fee when due. The fine shall not exceed five percent of the unpaid fee
22 assessment per month, but no fine shall be less than one hundred dollars per month.

23 C. 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 §1451. Systems for ratemaking

28 * * *

29 E. All provisions of this Section shall be applicable when a competitive
30 market in property and casualty lines insurance exists. The commissioner may

1 determine if there exists a competitive or noncompetitive market pursuant to the
2 provisions of R.S. 22:1453, including requiring reasonable notice and a **public**
3 hearing prior to determining a market to be noncompetitive. If, after a **public**
4 hearing, the commissioner determines the market to be noncompetitive, all rate
5 filings shall follow the provisions of Subsection C of this Section without regard to
6 the exception specified in Subsection D of this Section. **An aggrieved party**
7 **affected by the commissioner's decision, act, or order may demand a hearing in**
8 **accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.**

9 * * *

10 §1453. Competitive market

11 A.(1) A competitive market for a line of insurance is presumed to exist
12 unless the commissioner, after giving reasonable notice and after conducting a
13 **public** hearing, determines that a reasonable degree of competition does not exist
14 within a market and issues a ruling that a reasonable degree of competition in the
15 market for a particular line of insurance does not exist. In any **public** hearing to
16 determine whether a competitive market exists for a line of insurance, the party
17 alleging that competition does not exist shall have the burden of proving that market
18 competition does not exist.

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 §1465. Disapproval of filings; rates; procedures

25 A.

26 * * *

27 (3)(a) If at any time after a filing has become effective under R.S. 22:1451,
28 the commissioner finds that a filing does not meet the requirements of this Subpart,
29 he shall request a **public** hearing to be held upon not less than ten days' written
30 notice, specifying the matters to be considered at such hearing to every insurer and

1 rating organization which made such filing, and the commissioner shall thereafter
2 issue an order specifying in what respects, if any, the commissioner finds that such
3 filing fails to meet the requirements of this Subpart, and stating when, within a
4 reasonable period thereafter, such filing shall be deemed no longer effective.

5 * * *

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

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

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

30 (2) ~~If, after such hearing, the commissioner finds that the filing does not~~

1 ~~meet the requirements of this Subpart, he shall issue an order specifying in what~~
2 ~~respect the commissioner finds that such filing fails to meet the requirements of this~~
3 ~~Subpart, and stating when, within a reasonable period thereafter, such filing shall be~~
4 ~~deemed no longer effective. Copies of the order shall be sent to the applicant and to~~
5 ~~every such insurer and rating organization. The order shall not affect any contract~~
6 ~~or policy made or issued prior to the expiration of the period set forth in said order.~~

7 §1466. Other rating organizations

8 A. A corporation, an unincorporated association, a partnership, or an
9 individual, whether located within or outside this state, may make application to the
10 commissioner of insurance for license as a rating organization for such kinds of
11 insurance, or subdivision, or class of risk, or a part or combination thereof as are
12 specified in its application and shall file therewith: (1) a copy of its constitution, its
13 articles of agreement or association, or its certificate of incorporation, and of its
14 bylaws, rules, and regulations governing the conduct of its business, (2) a list of its
15 members and subscribers, (3) the name and address of a resident of this state upon
16 whom notices or orders of the commissioner or a division or process affecting such
17 rating organization may be served, and (4) a statement of its qualifications as a rating
18 organization. If the commissioner finds that the applicant is competent, trustworthy,
19 and otherwise qualified to act as a rating organization and that the public interest
20 would be served by issuing a license to such organization, not heretofore licensed,
21 for a kind or class of insurance subject to this Subpart, and that its constitution,
22 articles of agreement or association, or certificate of incorporation, and its bylaws,
23 rules, and regulations governing the conduct of its business conform to the
24 requirements of law, the commissioner shall issue a license specifying the kinds of
25 insurance, or subdivision, or class of risk, or part or combination thereof for which
26 the applicant is authorized to act as a rating organization. Every such application
27 shall be granted or denied in whole or in part by the commissioner within sixty days
28 of the date of its filing with it. Licenses issued pursuant to this Section shall remain
29 in effect for three years unless sooner suspended or revoked by the commissioner.
30 Licenses issued pursuant to this Section may be suspended or revoked by the

1 commissioner ~~after hearing upon notice,~~ **in accordance and compliance with R.S.**
2 **49:961** in the event the rating organization ceases to meet the requirements of this
3 Subsection. Every rating organization shall notify the commissioner promptly of
4 every change in: (1) its constitution, its articles of agreement, or association, or its
5 certificate of incorporation, and its bylaws, rules, and regulations governing the
6 conduct of its business, (2) its list of members and subscribers, and (3) the name and
7 address of the resident of this state designated by it upon whom notices or orders of
8 the commissioner or process affecting such rating organization may be served.

9 B. Subject to rules and regulations which have been approved by the
10 commissioner of insurance as reasonable, each rating organization, including the
11 Property Insurance Association of Louisiana, shall permit any insurer not a member
12 to be a subscriber to its rating services for any kind of insurance, subdivision, or
13 class of risk or a part or combination thereof for which it is authorized to act as a
14 rating organization. Notice of proposed changes in such rules and regulations shall
15 be given to subscribers. Each rating organization shall furnish its rating services
16 without discrimination to its members and subscribers. The reasonableness of any
17 rule or regulation in its application to subscribers, or the refusal of any rating
18 organization to admit an insurer as a subscriber, shall, at the request of any
19 subscriber or any such insurer, be reviewed by the commissioner at a **public** hearing
20 held upon at least ten days' written notice to such rating organization and to such
21 subscriber or insurer. If the commissioner finds that such rule or regulation is
22 unreasonable in its application to subscribers, the commissioner shall order that such
23 rule or regulation shall not be applicable to subscribers. If the rating organization
24 fails to grant or reject an insurer's application for subscribership within thirty days
25 after it was made, the insurer may request a review by the commissioner as if the
26 application had been rejected. If the commissioner finds that the insurer has been
27 refused admittance to the rating organization as a subscriber without justification, the
28 commissioner shall order the rating organization to admit the insurer as a subscriber.
29 If the commissioner finds that the action of the rating organization was justified, it
30 shall make an order affirming its action.

* * *

1
2 D. Cooperation among rating organizations or among rating organizations
3 and insurers in ratemaking or in other matters within the scope of this Subpart is
4 hereby authorized, provided the filings resulting from such cooperation are subject
5 to all the provisions of this Subpart which are applicable to filing generally. The
6 commissioner of insurance may review such cooperative activities and practices and
7 if, after a **public** hearing, it finds that any such activity or practice is unfair or
8 unreasonable or otherwise inconsistent with the provisions of this Subpart, the
9 commissioner shall issue a written order specifying in what respects such activity or
10 practice is unfair or unreasonable or otherwise inconsistent with the provisions of
11 this Subpart, and requiring the discontinuance of such activity or practice.

12 E. Any rating organization may provide for the examination of policies, daily
13 reports, binders, renewal certificates, endorsements, or other evidences of insurance,
14 or the cancellation thereof, and may make reasonable rules governing their
15 submission. Such rules shall contain a provision that in the event any insurer does
16 not within sixty days furnish satisfactory evidence to the rating organization of the
17 correction of any error or omission previously called to its attention by the rating
18 organization it shall be the duty of the rating organization to notify the commissioner
19 of insurance thereof. No such notification need be furnished the commissioner
20 unless it is apparent that a **public** hearing will be required. All information so
21 submitted for examination shall be confidential.

22 * * *

23 §1469. Appeal by subscriber to a rating organization

24 A. Any member of or subscriber to a rating organization may appeal to the
25 commissioner from the action or decision of such rating organization in approving
26 or rejecting any proposed change in or addition to the filings of such rating
27 organization. The commissioner shall, after a **public** hearing held upon not less than
28 ten days' written notice to the appellant and to such rating organization, issue an
29 order approving the action or decision of such rating organization or directing it to
30 give further consideration to such proposal, or, if such appeal is from the action or

1 decision of the rating organization in rejecting a proposed addition to its filings, he
2 may, in the event the commissioner finds that such action or decision was
3 unreasonable, issue an order directing the rating organization to make an addition to
4 its filings, on behalf of its members and subscribers, in a manner consistent with the
5 findings of the commissioner within a reasonable time after the issuance of such
6 order. All appeals shall be to the commissioner, who shall hold a public hearing on
7 the appeal.

8 * * *

9 §1470. Information to be furnished insureds; hearings and appeals of insureds

10 * * *

11 B. Every rating organization and every insurer which makes its own rates
12 shall provide within this state reasonable means whereby any person aggrieved by
13 the application of its rating system may be heard in person or by his authorized
14 representative, on his written request to review the manner in which such rating
15 system has been applied in connection with the insurance afforded him. If the rating
16 organization or insurer fails to grant or reject such request within thirty days after it
17 is made, the applicant may proceed in the same manner as if his application had been
18 rejected. Any party affected by the action of such rating organization or such
19 insurer, except for a worker's compensation insurer, on such request may, within
20 thirty days after written notice of such action, appeal to the commissioner of
21 insurance, who, after a **public** hearing held upon not less than ten days' written notice
22 to the appellant and to such rating organization or insurer, may affirm or reverse such
23 action. Except as provided in R.S. 23:1395(A), any party affected by the action of
24 a worker's compensation insurer may appeal in accordance with the procedures
25 adopted by the commissioner and thereafter to the Nineteenth Judicial District Court
26 in accordance with the provisions of the Louisiana Code of Civil Procedure. In the
27 event that this Section is in conflict with R.S. 23:1395(A), the provisions of R.S.
28 23:1395(A) shall control.

29 §1471. Advisory organizations

30 * * *

1 C. If after a **public** hearing, the commissioner of insurance finds that the
2 furnishing of such information or assistance involves any act or practice which is
3 unfair or unreasonable or otherwise inconsistent with the provisions of this Subpart,
4 the commissioner shall issue a written order specifying in what respects such act or
5 practice is unfair or unreasonable or otherwise inconsistent with the provisions of
6 this Subpart, and requiring the discontinuance of such act or practice.

7 * * *

8 **E. 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 §1472. Joint underwriting or joint reinsurance

12 * * *

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

16 * * *

17 §1529. Penalties

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

23 * * *

24 **C. 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 §1546. Application for license

29 * * *

30 B.(1)

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* * *

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

* * *

§1547. License

* * *

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

* * *

§1549. Specialty limited lines credit insurance

* * *

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

* * *

1 revocation, or refusal to renew a license, the commissioner, **in accordance and**
 2 **compliance with R.S. 49:961**, shall notify the licensee in writing of the
 3 determination. Any such suspension or revocation of a license, or refusal to renew
 4 or reinstate a license, shall include all lines of insurance for which the licensee was
 5 authorized. ~~Within thirty days of receipt of notification of denial, the licensee may~~
 6 ~~make written demand to the commissioner for a hearing to seek a reversal of the~~
 7 ~~determination by the commissioner.~~ **An aggrieved party affected by the**
 8 **commissioner's decision, act, or order may demand a hearing in accordance**
 9 **with Chapter 12 of this Title, R.S. 22:2191 et seq.**

10 D. The license of a business entity may be suspended or revoked, or renewal
 11 or reinstatement thereof may be refused, or a fine may be levied, with or without a
 12 suspension, revocation, or refusal to renew a license, if the commissioner finds, ~~after~~
 13 ~~a hearing,~~ **in accordance and compliance with R.S. 49:961**, that an individual
 14 licensee's violation was known or should have been known by one or more of the
 15 partners, officers, or managers acting on behalf of the business entity and the
 16 violation was not reported to the Department of Insurance and no corrective action
 17 was undertaken timely. Any such suspension or revocation of a license, or refusal
 18 to renew or reinstate a license, shall include all lines of insurance for which the
 19 licensee was authorized.

20 * * *

21 §1559. Notification to commissioner of termination

22 * * *

23 G. An insurer, the authorized representative of the insurer, or producer that
 24 is found to have reported with actual malice by a court of competent jurisdiction
 25 may, ~~after notice and hearing,~~ have its license or certificate of authority suspended
 26 or revoked and may be fined in an amount not to exceed five thousand dollars per
 27 violation. An insurer, the authorized representative of the insurer, or a producer that
 28 fails to report as required under the provisions of this Section may be fined in an
 29 amount not to exceed five thousand dollars per violation.

30 * * *

1 §1571. Registered insurance agent and bail agent preclicensing program

2 * * *

3 H. ~~The~~ **In accordance and compliance with R.S. 49:961, the** commissioner
4 may cancel or suspend the certification of any registered insurance agent or bail
5 agent preclicensing program which does not meet the requirements of this Subpart or
6 of any of the rules or regulations promulgated pursuant to this Subpart. Such
7 cancellation or suspension shall be made after notice and an opportunity for hearing.
8 **An 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 * * *

12 §1627. Penalties; suspension, revocation, fines, and liabilities

13 A. If the commissioner finds after a hearing conducted in accordance with
14 ~~Chapter 12 of this Title, R.S. 22:2191 et seq.,~~ **the Administrative Procedure Act,**
15 **R.S. 49:950 et seq.,** that any person has violated any provision of this Part, the
16 commissioner may order:

17 * * *

18 §1671. License

19 * * *

20 C. The licensee shall inform the commissioner of insurance by any means
21 acceptable to the commissioner of insurance of a change of address, change of legal
22 name, or change of information submitted on the application within thirty days of the
23 change. Failure to file a change within the required time shall subject the licensee
24 to a fifty dollar fine per violation or other fine as may be authorized by R.S. 22:821.
25 Any person against whom a penalty has been levied shall be given due notice of such
26 action. Upon receipt of this notice, the licensee may apply for and shall be entitled
27 to a hearing- **in accordance and compliance with Chapter 12 of this Title, R.S.**
28 **22:2191 et seq.**

29 * * *

30 §1672. License denial, nonrenewal, or revocation

* * *

B. If the commissioner of insurance denies an application or refuses to renew a license, he shall notify the applicant or licensee, in writing, **in accordance and compliance with R.S. 49:961**, of the reason for the denial or nonrenewal. ~~The applicant or licensee may make written demand upon the commissioner of insurance within thirty days for a hearing to review the commissioner of insurance's action.~~ **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.**

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

* * *

§1699. License

* * *

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

* * *

§1700. License denial, nonrenewal, or revocation

* * *

1 C. In the event that the action by the commissioner of insurance is to deny
 2 an application for or not renew a license, the commissioner of insurance shall notify
 3 the applicant or licensee and advise, in writing, **in accordance and compliance with**
 4 **R.S. 49:961**, the applicant or licensee of the reason for the nonrenewal or denial of
 5 the applicant's or licensee's license. ~~The applicant or licensee may make written~~
 6 ~~demand upon the commissioner of insurance within thirty days for a hearing to~~
 7 ~~determine the reasonableness of the commissioner of insurance's action.~~ **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 D. The license of a business entity may be suspended, revoked, or refused
 12 if the commissioner of insurance finds, after hearing, **complying with R.S. 49:961**,
 13 that an individual licensee's violation was known or should have been known by one
 14 or more of the partners, officers, or managers acting on behalf of the business entity
 15 and the violation was neither reported to the commissioner of insurance nor
 16 corrective action taken.

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

20 * * *

21 §1731. Penalties and liabilities

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

26 * * *

27 §1793. License revocation and denial

28 * * *

29 ~~C. If the commissioner denies a license application or suspends, revokes, or~~
 30 ~~refuses to renew the license of a viatical settlement provider, viatical settlement~~

1 ~~broker, or viatical settlement investment agent, the commissioner shall conduct a~~
2 ~~hearing in accordance with Chapter 12 of this Title, subject to the provisions of~~
3 ~~Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. Such hearing~~
4 ~~shall not be required in association with the expiration of a license due to failure to~~
5 ~~pay the annual renewal fee. An aggrieved party affected by the commissioner's~~
6 ~~decision, act, or order may demand a hearing in accordance with Chapter 12 of~~
7 ~~this Title, R.S. 22:2191 et seq.~~

8 * * *

9 §1837. Violations; cease and desist orders; penalties

10 A. Whenever the commissioner has reason to believe that any health
11 insurance issuer is not in full compliance with the requirements of this Subpart, he
12 shall notify such issuer in accordance and compliance with R.S. 49:961 and, after
13 notice ~~and opportunity for hearing pursuant to Chapter 12 of this Title, subject to~~
14 ~~Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950,~~ the
15 commissioner shall issue and cause to be served an order requiring the health
16 insurance issuer to cease and desist from any violation and order any one or more of
17 the following:

18 * * *

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

23 * * *

24 C. 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 §1860. Violations; cease and desist orders; penalties

29 A. Whenever the commissioner has reason to believe that any health
30 insurance issuer is not in full compliance with the requirements of this Subpart, he

1 shall notify such issuer in accordance and compliance with R.S. 49:961 and, after
2 notice, ~~and opportunity for hearing pursuant to Chapter 12 of this Title, subject to~~
3 ~~Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950,~~ the
4 commissioner shall issue and cause to be served an order requiring the health
5 insurance issuer to cease and desist from any violation and order any one or more of
6 the following:

7 * * *

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

12 * * *

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

16 * * *

17 §1968. Notice of hearing

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

26 §1969. Violations, penalties

27 **A. If, after the hearing, receiving the person's answer or response or if no**
28 **answer or response is received within twenty days of receipt of mailing, faxing,**
29 **or delivery of the notice,** the commissioner shall determine that the person charged
30 has engaged in an unfair method of competition or an unfair or deceptive act or

1 practice, he shall reduce his findings to writing and shall issue and cause to be served
2 upon the person charged with the violation a copy of such findings and an order
3 requiring such person to cease and desist from engaging in such method of
4 competition, act, or practice and order any one or more of the following:

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

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

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

16 §1970. Cease and desist order; penalty for violation

17 **A.** Any person who violates a cease and desist order of the commissioner
18 under R.S. 22:1969 and while such order is in effect may after ~~notice and hearing~~
19 ~~under R.S. 22:2191 and upon order of the commissioner~~ **compliance with R.S.**
20 **49:961** be subject at the discretion of the commissioner to any one or more of the
21 following:

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

25 (2) Suspension or revocation of such person's license or certificate of
26 authority.

27 **B. An aggrieved party affected by the commissioner's decision, act, or**
28 **order may demand a hearing in accordance with Chapter 12 of this Title, R.S.**
29 **22:2191 et seq.**

30 * * *

1 §1995. Departmental complaint directives; failure to comply; fines; hearing

2 * * *

3 B. Any person against whom a fine has been levied shall be given **ten days'**
4 notice of such action. Upon receipt of this notice, the person aggrieved may apply
5 for and shall be entitled to a hearing pursuant to **Chapter 12 of this Title**, R.S.
6 22:2191 et seq.

7 * * *

8 §2060. Duties and powers of the commissioner

9 * * *

10 B. The commissioner may:

11 * * *

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

19 * * *

20 **C. 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 §2090. Powers and duties of the commissioner

25 * * *

26 B. The commissioner may suspend or revoke, after ~~notice and hearing~~,
27 **compliance with R.S. 49:961**, the certificate of authority to transact insurance in this
28 state of any member insurer who fails to pay an assessment when due or fails to
29 comply with the plan of operation. As an alternative, the commissioner may also
30 levy a fine on any member insurer who fails to pay an assessment when due. The

1 fine shall not exceed five percent of the unpaid assessment per month, but no fine
2 shall be less than one hundred dollars per month.

3 * * *

4 §2147. Plan of operation

5 A.

6 * * *

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

14 * * *

15 §2191. Hearings

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

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

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

28 (a) **B.(1)** Any such demand for a hearing shall ~~specify~~ **be filed with the**
29 **division of administrative law and with the commissioner within thirty days**
30 **after notice of such act or order is mailed, faxed, or delivered to the aggrieved**

1 party at his last known address specifying in what respects such person is so
2 aggrieved and the grounds to be relied upon as basis for the relief to be demanded
3 at the hearing. The aggrieved person shall reference the particular sections of the
4 statutes and rules involved, shall provide a short and plain statement of matters
5 asserted for review, and shall attach a copy of any order or decision of the
6 commissioner for review.

7 (b) ~~(2)~~ The ~~commissioner of insurance, or any department employee~~
8 ~~designated by him for that purpose,~~ division of administrative law shall hold such
9 hearing demanded within thirty days after his receipt of the demand, unless
10 postponed by mutual consent, or upon motion of either party for good cause shown:
11 or as ordered by the division of administrative law. In no circumstance shall this
12 hearing be held later than sixty days from the date of the original demand for the
13 hearing unless otherwise agreed upon by all parties.

14 (c) ~~C.~~ Any demand for such hearing shall be made within thirty days of
15 receipt of actual notice or, if actual notice is not received, within thirty days of the
16 date such person learned of the act upon which the demand for hearing is based as
17 described in this Paragraph. This Chapter shall not apply to public hearings held
18 by the commissioner unless otherwise provided. The commissioner may
19 promulgate procedures, rules, and regulations for the conduct of any public
20 hearing in accordance with the Administrative Procedure Act, R.S. 49:950 et
21 seq.

22 * * *

23 §2193. Hearing place, ~~public~~

24 The hearing all division of administrative law hearings shall be held at the
25 place designated by the ~~commissioner of insurance,~~ and at his discretion it may be
26 open to the public. division of administrative law and in accordance with the
27 Administrative Procedure Act, R.S. 49:950 et seq.

28 §2194. Notice of hearing

29 A. ~~The commissioner of insurance shall, not less than five days in advance,~~
30 ~~give notice to an insolvent domestic insurance company to be affected by the hearing~~

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 law
4 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 a
13 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
30 of any books, records, or papers relative to ~~the~~ a hearing, inquiry, or investigation.

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

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

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

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

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

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

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

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

1 affected by the hearing.

2 * * *

3 §2204. Stay of action on review

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

11 B. A stay shall not be granted by the court **division of administrative law**
12 in any case where the granting of a stay would tend to injure the public interest. In
13 granting a stay, the court may require of the person taking the action such security
14 or other conditions as it deems proper: **and in accordance with the Administrative**
15 **Procedure Act, R.S. 49:950.**

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

23 §2205. Appeal to proper appellate court

24 ~~An appeal may be taken to the proper appellate court as in civil actions from~~
25 ~~a judgment of the district court made pursuant to any provisions of this Chapter.~~
26 ~~Such appeal shall be advanced upon the trial calendar of the appellate court and be~~
27 ~~heard at the earliest convenient date.~~ **All appeals from a decision of the Division**
28 **of Administrative Law shall be in accordance with the Administrative**
29 **Procedure Act, R.S. 49:950 et seq.**

30 §2206. Use of injunctive process

