2018 Regular Session

HOUSE BILL NO. 607

BY REPRESENTATIVE SEABAUGH

INSURANCE: Provides relative to the commissioner of insurance's examination and investigation authority

1	AN ACT
2	To amend and reenact R.S. 22:1983(E)(2), (G), and (H), 1984(G), and 2191(A)(2), relative
3	to examinations and investigations by the commissioner of insurance; to provide for
4	appellate review of examination reports; to provide for appellate review of certain
5	fines; to provide for an effective date; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 22:1983(E)(2), (G), and (H), 1984(G), and 2191(A)(2) are hereby
8	amended and reenacted to read as follows:
9	§1983. Examination reports
10	* * *
11	E. Within thirty days of the end of the period allowed for the receipt of
12	written submissions or rebuttals, as provided for in Subsections B and D of this
13	Section, the commissioner shall fully consider and review the refiled report, together
14	with any written submissions or rebuttals and any relevant portions of the
15	workpapers of the examiner and enter an order either:
16	* * *
17	(2) Rejecting the examination report and ordering a hearing pursuant to the
18	provisions of Chapter 12 of this Title, for purposes of obtaining additional
19	documentation, data, information, and testimony.
20	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	G. (1) Within thirty days of receipt of notification of the order of the
2	commissioner to the company made pursuant to Subsection F of this Section, the
3	company may make written demand for a hearing pursuant to the provisions of
4	Chapter 12 of this Title. an appeal to the Nineteenth Judicial District Court.
5	(2) The court shall conduct a review without a jury and by trial de novo,
6	except that if all parties, including the commissioner, so stipulate, the review shall
7	be confined to the record. Portions of the record may be introduced by stipulation
8	into evidence in a trial de novo as to those parties so stipulating.
9	(3) The filing of an appeal pursuant to this Section shall stay the application
10	of any rule, regulation, order, or other action of the commissioner to the appealing
11	party unless the court, after giving the party notice and an opportunity to be heard,
12	determines that a stay would be detrimental to the interest of policyholders,
13	shareholders, creditors, or the public.
14	H. The hearing appeal proceedings provided for under in Paragraph (E)(2)
15	or Subsection G of this Section shall be a confidential proceeding. confidential, and
16	all filings in the proceeding shall be sealed. At the conclusion of the hearing, appeal
17	proceedings, the commissioner shall enter an order, not inconsistent with any orders
18	issued pursuant to Subsection G of this Section, adopting the examination report as
19	filed or refiled, or with modification or corrections, and may order the company to
20	take any action the commissioner considers necessary and appropriate to cure any
21	violation of any law, regulation, or prior order of the commissioner.
22	* * *
23	§1984. Commissioner of insurance to conduct financial and market analysis of
24	insurers and regulated entities
25	* * *
26	G. (1) Any insurer or regulated entity against whom a fine has been levied
27	shall be given thirty days notice of such the action. Upon receipt of this notice, the
28	aggrieved insurer or regulated entity may apply for and shall be entitled to a hearing
29	pursuant to R.S. 22:2191 et seq. an appeal to the Nineteenth Judicial District Court.

1	(2) The court shall conduct a review without a jury and by trial de novo,
2	except that if all parties, including the commissioner, so stipulate, the review shall
3	be confined to the record. Portions of the record may be introduced by stipulation
4	into evidence in a trial de novo as to those parties so stipulating.
5	(3) The filing of an appeal pursuant to this Section shall stay the application
6	of any rule, regulation, order, or other action of the commissioner to the appealing
7	party unless the court, after giving the party notice and an opportunity to be heard,
8	determines that a stay would be detrimental to the interest of policyholders,
9	shareholders, creditors, or the public.
10	(4) The appeal proceedings provided for pursuant to this Subsection shall be
11	confidential, and all filings in the proceeding shall be sealed.
12	* * *
13	§2191. Hearings
14	A. The division of administrative law shall hold a hearing in accordance with
15	the Administrative Procedure Act, R.S. 49:950 et seq., and shall hold a hearing under
16	either of the following circumstances:
17	* * *
18	(2) Upon written demand for a hearing made by any person aggrieved by any
19	act, order of the commissioner, or failure of the commissioner of insurance to act,
20	except where provisions of this Code require the demand be made to other agencies
21	or courts, if such failure is deemed an act under any provision of this Code, or by any
22	report, promulgation, or order of the commissioner of insurance other than an order
23	on a hearing of which such person was given actual notice or at which such person
24	appeared as a party, or order pursuant to the order on such hearing.
25	* * *

26 Section 2. This Act shall become effective on January 1, 2019.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 607 Original	2018 Regular Session	Seabaugh
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Abstract: Provides for appellate review of certain administrative actions by the commissioner of insurance in the 19th Judicial District Court.

<u>Present law</u> requires the commissioner of insurance to make an examination, at least once every five years, of all insurers doing business in this state and at any other time when the commissioner deems it necessary. <u>Present law</u> further authorizes the commissioner to make an examination of any producer doing business in this state whenever he has received at least three complaints within a 30-day period.

Proposed law retains proposed law.

<u>Present law</u> requires the commissioner of insurance, within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals in response to a filed examination report, to fully consider and review the refiled report, together with any written submissions or rebuttals and any relevant portions of the workpapers of the examiner and enter an order to do either:

- (1) Adopting the examination report as refiled or with modification or corrections.
- (2) Rejecting the examination report and ordering a hearing for purposes of obtaining additional documentation, data, information, and testimony.

<u>Proposed law</u> deletes the option to order an administrative hearing if the examination report is rejected.

<u>Present law</u> authorizes a company, within 30 days of receipt of notification of the decision of the commissioner adopting the examination report, to make written demand for an administrative hearing. <u>Present law</u> further grants any insurer or regulated entity against whom a fine has been levied the right to an administrative hearing.

<u>Proposed law</u> changes the hearing to an appeal to the 19th JDC and requires the court to conduct a review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record.

<u>Proposed law</u> provides that the filing of an appeal shall stay the application of any rule, regulation, order, or other action of the commissioner to the appealing party unless the court, after giving the party notice and an opportunity to be heard, determines that a stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

Present law provides that the administrative hearing shall be a confidential proceeding.

<u>Proposed law</u> provides that the appeal proceeding shall be confidential and all filings in the proceeding shall be sealed.

Effective Jan. 1, 2019.

(Amends R.S. 22:1983(E)(2), (G), and (H), 1984(G), and 2191(A)(2))

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