

RÉSUMÉ DIGEST

ACT 174 (SB 266)

2016 Regular Session

Long

Prior law required any business entity seeking to be engaged in business as an independent insurance claims adjusting company to provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, 10% or more of the outstanding voting securities of the applicant. Provided that in order to make a determination of eligibility, the commissioner of insurance may require submission of addresses, social security numbers, criminal and administrative histories, fingerprints, background checks, and biographical statements of each executive officer and director.

New law retains these provisions but changes "owning" to "controlling" and defines "control" as provided in the Insurance Holding Company System Regulatory Law of the Insurance Code.

Prior law provided for reciprocity for licensed claims adjusters for those from states that require licensure. New law provides that a nonresident who is not eligible for licensure under reciprocity provisions in the Insurance Code may designate Louisiana as his home state provided the person successfully passes the adjuster examination and complies with all the requirements for a Louisiana resident adjuster.

Prior law provided that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in another state based on a claims adjuster examination shall not be required to complete an examination. Provided that this exemption is available only if the person is currently licensed in that state or if the application is received within 12 months of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

New law deletes these provisions.

Prior law provided that an individual licensed as a claims adjuster in another state based on a claims adjuster examination who moves to this state shall make application within 90 days of establishing legal residence to become a resident claims adjuster licensee. Provided that no examination is required of that individual to obtain a claims adjuster license.

New law limits this exemption from examination requirements to a person who is currently licensed in another state or if the application is received within 90 days of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

Prior law provided that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in La. shall not be required to complete an examination. This exemption is available only if the application is received within 12 months of the cancellation of the applicant's previous claims adjuster license in La. and if, at the time of cancellation, the applicant was in good standing in La., and had passed the required examination. New law increases the 12 month time frame to 24 months.

New law authorizes the commissioner to waive the workers' compensation examination requirement for an individual who has three years of verifiable experience adjusting workers' compensation claims within the preceding five years, provided the application is received on or before August 1, 2017.

New law provides that a claims adjuster may receive qualification for a license in one or more of the following lines of authority:

- (1) Property and casualty.

- (2) Workers' compensation.
- (3) Crop.
- (4) Any limited line for which the commissioner issues a limited license.

New law provides that a claims adjuster doing business under any name other than the claims adjuster's legal name is required to notify the commissioner of insurance prior to using the assumed name. Prior to the use of or changes to any trade name or names, the claims adjuster is required to provide written notification to the commissioner. Requires that a certified copy of the registration from the secretary of state shall accompany the application for a trade name and provides that the use by any claims adjuster of a nonapproved trade name subjects the person to a fine not exceeding \$250. Provides that if the adjuster continues to use a nonapproved trade name for ten or more days after being notified to cease using the nonapproved trade name, then the adjuster is subject to an additional fine not to exceed \$5,000.

Prior law provided that a claims adjuster whose license has lapsed may, within 12 months from the expiration date of the renewal, reinstate the license upon approval of the commissioner. Provided that a penalty in the amount of double the unpaid renewal fee shall be required for the reinstatement of the claims adjuster license. Provided that reinstatement shall be effective on the date the commissioner of insurance approves the request for reinstatement.

New law removes these provisions and provides that a licensed claims adjuster who allows his license to lapse may, within two years from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements through the date of reinstatement and upon payment of all fees due. Provides that if the license has been lapsed for more than two years, the applicant shall fulfill the requirements for issuance of a new license.

Prior law provided that the commissioner may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine not to exceed \$500 for each violation up to \$10,000 aggregate for all violations in a calendar year, unless a fine is established by separate provision in the Insurance Code authorizing a greater penalty, or any combination of actions, for any one or more of the following causes:

- (1) Providing incorrect, misleading, incomplete, or materially false information in the license application.
- (2) Violating any state insurance law or regulation or a subpoena or order of the commissioner of insurance or of another state's insurance commissioner.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting any money or property received in the course of conducting insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Conviction of a felony related to the adjustment of insurance claims.
- (7) Admitting to or committing fraud or unfair trade practices.
- (8) Using fraudulent, coercive, or dishonest practices.
- (9) Demonstrating incompetence, untrustworthiness, or financial irresponsibility while conducting business.
- (10) Denial, suspension, or revocation of an insurance license, or its equivalent, in any other state, province, district, or territory.

- (11) Forging a name on an application for insurance or any document related to an insurance transaction.
- (12) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.
- (13) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner of insurance.
- (14) Failure to comply with an administrative or court order imposing a child support obligation.
- (15) Failure to pay state income tax or comply with any administrative or court order directing payment of state income tax.
- (16) Violating R.S. 22:1674(F).
- (17) Failure to complete assignment of adjustment of a claim in a thorough and timely manner, including submission of the adjustment of a claim to the party which made that assignment.

New law retains prior law and adds the following reasons:

- (1) Providing incorrect, misleading, incomplete, or materially false information in the license renewal application.
- (2) Violating the insurance laws or regulations of the United States or any other jurisdiction.
- (3) Intentionally misrepresenting the terms of an actual or proposed insurance binder, rider, or plan, including all forms or documents that are attached, or will be attached, to an actual or proposed insurance contract, binder, rider, plan, or application for insurance.
- (4) Conviction of or a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, suspension or deferral of sentence and probation pursuant to Article 893 of the Code of Criminal Procedure or similar law of another state, or conviction of any misdemeanor involving moral turpitude, or public corruption, or the adjustment of insurance claims.
- (5) The refusal to submit physical evidence of identity or the conviction of a felony, in accordance with R.S. 22:1922(B) and (C).
- (6) Employing or allowing to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this or any other state, the United States, or any other jurisdiction. "Business of insurance" means the writing of insurance or the reinsuring of risks by an insurance producer or insurer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as, or are, officers, directors, agents, or employees of producers or insurers, or who are other persons authorized to act on behalf of such persons.
- (7) The conviction of a felony involving dishonesty or breach of trust pursuant to 18 U.S.C. §1033 and §1034, without written consent from the commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

The above provisions are effective August 1, 2016.

Prior law provided an exemption from licensure for workers' compensation adjusters.

New law repeals that exemption effective August 1, 2017.

(Amends R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671(A), (D), (E), (F), and (G), and 1672 (A); adds R.S. 22:1665 (F) and 1671(H); repeals R.S. 22:1662(13))