

ACT No. 312

2016 Regular Session

HOUSE BILL NO. 746

BY REPRESENTATIVE THIBAUT

1 AN ACT

2 To amend and reenact R.S. 22:1573(A), (C) through (E), and (G) and R.S. 44:4.1(B)(11) and
3 to enact R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana
4 Revised Statutes of 1950, to be comprised of R.S. 22:1808.1 through 1808.13,
5 relative to the licensing and regulation of insurance consultants by the commissioner
6 of insurance; to provide for licensing and renewals; to provide for definitions; to
7 provide for fees; to provide for qualifications; to provide for examinations; to
8 provide for continuing education requirements; to provide for reciprocity with other
9 states; to provide for confidentiality; to provide for public records exception; to
10 provide for exemptions from certain requirements; to provide for civil and criminal
11 penalties for certain violations; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:1573(A), (C) through (E), and (G) are hereby amended and
14 reenacted and R.S. 22:821(B)(38) and Part XII of Chapter 5 of Title 22 of the Louisiana
15 Revised Statutes of 1950, comprised of R.S. 22:1808.1 through 1808.13, are hereby enacted
16 to read as follows:

17 §821. Fees

18 * * *

19 B. The following fees and licenses shall be collected in advance by the
20 commissioner of insurance:

21 * * *

1 (38) For insurance consultants' licenses:

2 (a) Life, health, and accident consultant; variable annuity
3 consultant

4 First time applicant. \$75.00

5 Consultant renewal fee (every two years). . . \$50.00

6 (b) Property and casualty consultant

7 First time applicant. \$75.00

8 Consultant renewal fee (every two years). . . \$50.00

9 * * *

10 §1573. Continuing education requirements

11 A. The continuing education requirements for renewal of license under R.S.
12 22:1547(C)(3) and 1808.4(C)(3) are set forth in this Section. The continuing
13 education requirement shall be fulfilled by satisfactory completion of the required
14 hours of instruction in continuing education programs approved by the
15 commissioner.

16 * * *

17 C. Life insurance producers and consultants and health insurance producers
18 and consultants shall complete twenty-four hours of approved instruction or
19 verifiable approved self-study prior to each renewal of license, with at least three
20 hours dedicated to the subject of ethics. A person who holds a combination of life
21 or health insurance producer licenses and life or health consultant licenses shall
22 complete a total of twenty-four hours of approved instruction or verifiable approved
23 self-study, with at least three hours dedicated to the subject of ethics.

24 D. Insurance producers authorized to write property, casualty, or property
25 and casualty or personal lines insurance business and property, casualty, or property
26 and casualty insurance consultants shall complete twenty-four hours of approved
27 instruction or verifiable approved self-study before each renewal of license with at
28 least three hours of approved instruction dedicated to the subject of ethics and three
29 hours dedicated to the subject of flood insurance. A person who holds a combination
30 of property, casualty, or property and casualty insurance producer licenses and

1 property, casualty, or property and casualty consultant licenses, shall complete a total
2 of twenty-four hours of approved instruction or verifiable approved self-study, with
3 at least three hours dedicated to the subject flood insurance.

4 E. For producers authorized to write life, health and accident insurance and
5 also authorized to write property, casualty, or property and casualty or personal lines
6 insurance business, and consultants authorized to consult on life, health and accident
7 insurance and also authorized to consult on property, casualty, or property and
8 casualty or personal lines insurance business, the continuing education requirement
9 for renewal of license shall be twenty-four hours of approved instruction or verifiable
10 approved self-study with at least three hours of approved instruction or verifiable
11 approved self-study dedicated to the subject of ethics and three hours dedicated to
12 the subject of flood insurance. Persons who hold a combination of life, health and
13 accident, property, casualty, or property and casualty insurance producer licenses and
14 life, health and accident, property, casualty, or property and casualty consultant
15 licenses shall complete a total of twenty-four hours of approved instruction or
16 verifiable approved self-study, with at least three hours dedicated to the subject of
17 ethics and three hours dedicated to the subject of flood insurance.

18 * * *

19 ~~G. No more than ten excess hours of approved life and health and accident~~
20 ~~insurance instruction accumulated during one renewal period may be carried forward~~
21 ~~and applied to the continuing education requirement for the next renewal period~~
22 Producers and consultants licensed for life, health and accident, property, casualty
23 or personal lines may carry over no more than ten excess hours of approved
24 insurance instruction accumulated during one renewal period to be applied to the
25 continuing education requirement for the next renewal period.

26 * * *

27 PART XII. INSURANCE CONSULTANTS

28 §1808.1. License required

29 A. No person shall act as, or hold himself out to be, an insurance consultant
30 unless licensed by the Department of Insurance.

1 B.(1) "Insurance consultant" means any person or entity which offers for a
2 fee or other valuable consideration any advice, counsel, opinion, or related services
3 with respect to risk evaluation or management, the benefits, coverages, exclusions,
4 or provisions under any policy of insurance to be issued in this state, or involving the
5 advantages or disadvantages of any such policy of insurance, or any formal plan of
6 managing risk.

7 (2) "Insurance consultant" for the purposes of this Part shall not include:

8 (a) Attorneys while working in the capacity of an attorney.

9 (b) Litigation support or insurance expert witness services related to litigated
10 matters.

11 (c) Claims adjusters.

12 (d) Public adjusters, appraisers, contractors, or engineers engaged in the
13 settlement of insurance claims, who do not have a direct or indirect financial interest
14 in any aspect of the claim, other than the compensation established in the written
15 contract with the insured.

16 (e) A licensed insurance producer who offers advice or consulting with
17 respect to any of the following, regardless of whether the insurance producer is
18 compensated by commission or agency fees for such advice, consulting, or services:

19 (i) Risk evaluation or management, risk transfer, self-insurance, self-insured
20 retention programs.

21 (ii) The benefits, coverages, exclusions, or provisions under any policy of
22 insurance.

23 (iii) The advantages or disadvantages of any policy of insurance or plan of
24 managing risk.

25 (iv) Any other advice, consulting, or related policyholder services in
26 conjunction with risk and insurance programs provided as an insurance producer.

27 (f) Loss control and accident prevention consultants.

28 (g) Certified public accountants while working in their capacity as an
29 accountant.

1 (h) Actuaries who are members of the American Academy of Actuaries
2 (MAAA).

3 §1808.2. Examination

4 A. A resident individual applying for an insurance consultant license shall
5 pass an examination unless exempt pursuant to R.S. 22:1808.6. The examination
6 shall test the knowledge of the individual concerning the lines of authority for which
7 application is made, the duties and responsibilities of an insurance consultant, and
8 the insurance laws and regulations of this state. Examinations required by this Part
9 shall be developed and conducted under rules and regulations prescribed by the
10 commissioner of insurance.

11 B.(1) If the applicant is a partnership, corporation, or other business entity,
12 the examination shall be taken by each individual who is to be named in or registered
13 on the license for the partnership, corporation, or other business entity and who is
14 engaged in insurance consulting, and by all insurance consultant employees of such
15 entity.

16 (2) Each line of insurance which the applicant proposes to consult under the
17 license applied for shall require an examination to be taken.

18 (3) The applicant shall pass the examination with a score at or above seventy
19 percent to indicate a satisfactory knowledge and understanding of each line of
20 insurance for which the applicant seeks qualification.

21 C.(1) Prior to taking the examination required by this Part, any person
22 applying for a license as an insurance consultant shall file with the Department of
23 Insurance, in a manner prescribed by the commissioner of insurance, certification
24 that the applicant has completed a registered prelicensing program certified by the
25 commissioner pursuant to R.S. 22:1571.

26 (2) A person applying for a license as an insurance consultant for
27 authorization to consult on life insurance shall be exempt from any prelicensing
28 education requirements if he has one of the following designations:

29 (a) Certified Employee Benefit Specialist (CEBS).

30 (b) Chartered Financial Consultant (ChFC).

- 1 (c) Certified Insurance Counselor (CIC).
- 2 (d) Certified Financial Planner (CFP).
- 3 (e) Chartered Life Underwriter (CLU).
- 4 (f) The Fellow, Life Management Institute (FLMI).
- 5 (g) The Life Underwriting Training Council Fellow Designation (LUTCF).
- 6 (3) A person applying for a license as an insurance consultant for
 7 authorization to consult on health and accident insurance shall be exempt from any
 8 prelicensing education requirements if he has one of the following designations:
- 9 (a) Registered Health Underwriter (RHU).
- 10 (b) Certified Employee Benefit Specialist (CEBS).
- 11 (c) Registered Employee Benefits Consultant (REBC).
- 12 (d) Health Insurance Associate (HIA).
- 13 (e) Chartered Healthcare Consultant (ChHC).
- 14 (4) A person applying for a license as an insurance consultant for
 15 authorization to consult on property or casualty insurance shall be exempt from any
 16 prelicensing education requirements if he has one of the following designations:
- 17 (a) Accredited Advisor in Insurance Program (AAI).
- 18 (b) Associate in Risk Management (ARM).
- 19 (c) Certified Risk Manager (CRM).
- 20 (d) Certified Insurance Counselor (CIC).
- 21 (e) Chartered Property and Casualty Underwriter (CPCU).
- 22 (f) Certified Workers' Compensation Professional (CWCP).
- 23 (5) A person applying for a license as an insurance consultant to consult on
 24 any line of insurance and having a bachelor's degree or higher from an accredited
 25 college or university with major course work in insurance shall be exempt from any
 26 prelicensing education requirements.
- 27 (6) A person who already holds an insurance producer license for a line of
 28 business shall be exempt from any prelicensing education and examination
 29 requirements for an insurance consultant license for the same line of business.

1 D. All examinations shall be conducted frequently and at a place or places
2 reasonably accessible to all applicants. The commissioner of insurance shall
3 promulgate reasonable rules and regulations providing the procedure for the
4 examinations.

5 E. The content of the examination may be outlined in the licensing
6 information handbook provided to applicants by the Department of Insurance,
7 publishers of examination study materials, any prelicensing providers, and others
8 wishing to provide this information.

9 F. The commissioner may contract, in accordance with R.S. 39:1551 et seq.,
10 with one or more private testing services for administering examinations and
11 collecting examination fees. The commissioner may require that the applicant pay
12 the cost of the examination directly to the testing firm.

13 G. A person who fails to appear for the examination as scheduled, or fails
14 to pass the examination, shall reapply for an examination and remit all required fees
15 and forms before being rescheduled for another examination.

16 H. The commissioner of insurance may provide to a testing service provider
17 under contract with the Department of Insurance any demographic information
18 received by the department on applications relating to examinations taken to qualify
19 for an insurance consultant license if the commissioner requires the provider to
20 review and analyze examination results in conjunction with the education level,
21 gender, native language, race, or ethnicity of examinees.

22 §1808.3. Application for license

23 A. A person applying for a resident insurance consultant license shall apply
24 to the commissioner of insurance on the application promulgated by the Department
25 of Insurance and declare under penalty of refusal, suspension, or revocation of the
26 license that the statements made in the application are true, correct, and complete to
27 the best of the individual's knowledge and belief. Before approving the application,
28 the commissioner shall find that the individual:

29 (1) Is at least eighteen years of age.

1 (2) Resides in the state or maintains his principal place of business in the
2 state.

3 (3) Is not disqualified for having committed any act that is a ground for
4 denial, suspension, or revocation as set forth in R.S. 22:1808.8.

5 (4) Has completed a prelicensing course of study for the lines of authority
6 for which the person has applied, if required.

7 (5) Has paid the fees set forth in R.S. 22:821.

8 (6) Has successfully passed the examinations for the lines of authority for
9 which the person has applied.

10 (7) When applicable, has the written consent of the commissioner of
11 insurance pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by
12 or affecting persons engaged in the business of insurance whose activities affect
13 interstate commerce.

14 B.(1)(a) A business entity acting as an insurance consultant is required to
15 obtain an insurance consultant license. Every member, partner, officer, director,
16 stockholder, and employee of the business entity personally engaged in this state in
17 insurance consulting shall be registered with the Department of Insurance under such
18 business entity's license, and each such member, partner, officer, director,
19 stockholder, or employee shall also qualify as an individual licensee for any line of
20 insurance consulting the business entity is licensed to transact. Licensing of any
21 limited liability company or limited liability partnership as an insurance consultant
22 is subject to prior approval of the commissioner of insurance.

23 (b) The business entity licensee shall notify the commissioner of insurance
24 within thirty days of any change of status of an individual who is registered under
25 the business entity license.

26 (c) Any business entity operating at more than one location shall notify the
27 commissioner of insurance of each permanent branch location address within thirty
28 days from the date of the opening of the new location. There shall be at least one
29 individual licensed insurance consultant registered with the Department of Insurance
30 for each branch location.

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

6 (2) Application shall be made using the application promulgated by the
7 Department of Insurance. Before approving the application, the commissioner of
8 insurance shall find that:

9 (a) The business entity has paid the fees set forth in R.S. 22:821.

10 (b) The business entity has designated one or more licensed individual
11 consultants responsible for the business entity's compliance with the insurance laws,
12 rules, and regulations of this state.

13 (3) When completing the background information portion of the application
14 pertaining to the disclosure of certain lawsuits or arbitration proceedings,
15 corporations, banks, partnerships, and directors shall disclose those proceedings
16 occurring within the past five years which are considered to be material under
17 generally accepted accounting principles for purposes of financial statement
18 disclosure.

19 C.(1) The commissioner of insurance may require any documents deemed
20 necessary to verify the information contained in an application.

21 (2)(a) In order to make a determination of license eligibility, the
22 commissioner of insurance shall require a full set of fingerprints from each applicant
23 and shall submit the fingerprints and the fees required to perform the criminal history
24 record checks to the Louisiana Bureau of Criminal Identification and Information for
25 state and national criminal history record checks.

26 (b) The commissioner of insurance may contract for the collection,
27 transmission, and re-submission of fingerprints required pursuant to this Part. If the
28 commissioner of insurance does so, the fee for collecting and transmitting
29 fingerprints and the fee for the criminal history record check shall be payable directly

1 to the contractor by the applicant. The commissioner of insurance may agree to a
 2 reasonable fingerprinting fee to be charged by the contractor.

3 (c)(i) The commissioner of insurance shall treat and maintain an applicant's
 4 fingerprints and any criminal history record information obtained pursuant to this
 5 Part as confidential and shall apply security measures consistent with the Criminal
 6 Justice Information Services Division of the Federal Bureau of Investigation
 7 standards for the electronic storage of fingerprints and necessary identifying
 8 information and limit the use of records solely to the purposes authorized in this Part.

9 (ii) The fingerprints and any criminal history record information shall be
 10 exempt from the Public Records Law, R.S. 44:1 et seq., shall not be subject to
 11 subpoena, other than a subpoena issued in a criminal proceeding or investigation,
 12 shall be confidential by law and privileged, and shall not be subject to discovery or
 13 admissible in evidence in any private civil action.

14 D. Any license issued pursuant to an application claiming residency, as
 15 defined in R.S. 22:46, shall constitute an election of residency in the state, and shall
 16 be void if the licensee while maintaining a resident license also maintains a license
 17 in, or thereafter submits an application for a license in, any other state or other
 18 jurisdiction stating that the applicant is a resident of such other state or jurisdiction,
 19 or if the licensee ceases to be a resident of this state.

20 §1808.4. License

21 A. Unless denied licensure pursuant to R.S. 22:1808.8, persons who have
 22 met the requirements of this Part shall be issued an insurance consultant license. An
 23 insurance consultant may receive qualification for a license in one or more of the
 24 following lines of authority:

25 (1) Life, which provides insurance coverage on human lives including
 26 benefits of endowment and annuities, and may include benefits in the event of death
 27 or dismemberment by accident and benefits for disability income.

28 (2) Health and accident, which provides insurance coverage for sickness,
 29 bodily injury, or accidental death, and may include benefits for disability income.

30 (3) Variable life and variable annuity products.

1 (4) Property, which provides insurance coverage for the direct or
 2 consequential loss or damage to property of every kind.

3 (5) Casualty, which provides insurance coverage against legal liability,
 4 including that for death, injury or disability, or damage to real or personal property.

5 B. Subject to the requirements of Subsection C of this Section, an insurance
 6 consultant license shall remain in effect, unless revoked, suspended, or denied
 7 renewal or reinstatement, as long as all applicable fees are paid and education
 8 requirements are satisfied, until the license expires or is surrendered by the holder
 9 thereof.

10 C.(1) Every licensed consultant shall file an application for renewal of his
 11 license every two years, by notifying the commissioner of insurance, by methods
 12 prescribed by the commissioner, of the licensee's intention to renew his license as a
 13 consultant.

14 (2) Any licensee who fails to file timely for license renewal shall be charged
 15 a late fee as authorized by R.S. 22:821.

16 (3)(a) Prior to the filing date for the application for renewal of a license, the
 17 licensee shall comply with the continuing education requirements in R.S. 22:1573
 18 for the lines of insurance being renewed.

19 (b) Such consultant shall file with the commissioner of insurance, by a
 20 method prescribed by the commissioner, satisfactory certification of completion of
 21 the continuing education requirements.

22 (c) Any failure to fulfill the continuing education requirements shall result
 23 in the expiration of the license.

24 D. An insurance consultant who allows his license to lapse may, within two
 25 years from the expiration date of the license, reinstate the same license upon proof
 26 of fulfilling all continuing education requirements through the date of reinstatement
 27 and upon payment of all fees due. If the license has been lapsed for more than two
 28 years, the applicant shall fulfill the requirements for issuance of a new license.

29 E. A licensed insurance consultant who is unable to comply with license
 30 renewal procedures due to military service or other extenuating circumstance, such

1 as a long-term medical disability, may request a waiver of those procedures. The
2 consultant may also request a waiver of any examination requirement or any other
3 fine or sanction imposed for failure to comply with renewal procedures.

4 F. The license shall state the name and mailing address of the licensee, date
5 of issuance, the renewal or expiration date, the line or lines of insurance covered by
6 the license, and such other information as the commissioner of insurance deems
7 necessary.

8 G. Every licensee shall notify the commissioner, by any means acceptable
9 to the commissioner, of any change of address, legal name, or information submitted
10 on the application within thirty days of the change. Failure to file such change
11 within the required time shall result in the imposition of a fifty-dollar penalty per
12 violation. Any person against whom a penalty has been levied shall be given due
13 notice of such action. Upon receipt of this notice, the licensee may apply for and
14 shall be entitled to a hearing in accordance with Chapter 12 of this Title, R.S.
15 22:2191 et seq.

16 H. A duplicate license may be issued for any lost, stolen, or destroyed
17 license issued pursuant to this Part upon a request by the licensee, by a method
18 prescribed by the commissioner, setting forth the facts of such loss, theft, or
19 destruction, together with a fee as authorized by R.S. 22:821.

20 I. In order to assist in the performance of the commissioner's duties, the
21 commissioner may contract with nongovernmental entities, including the National
22 Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that
23 the NAIC oversees, to perform any ministerial functions, including the collection of
24 fees, related to consultant licensing that the commissioner and the nongovernmental
25 entity may deem appropriate.

26 §1808.5. Nonresident licensing

27 A. Unless denied licensure pursuant to R.S. 22:1808.8, a nonresident person
28 shall receive a nonresident consultant license if:

29 (1) The person is currently licensed as a resident for an equivalent license
30 and in good standing in his home state.

1 (2) The person has submitted the proper request for licensure and has paid
2 the fees required by R.S. 22:821.

3 (3) The person has submitted or transmitted to the commissioner of
4 insurance the application for licensure that the person submitted to his home state.

5 (4) The person's home state awards nonresident consultant licenses to
6 residents of this state on the same basis.

7 B.(1) The commissioner of insurance may verify the consultant's licensing
8 status through the consultant database maintained by the National Association of
9 Insurance Commissioners, its affiliates, or subsidiaries.

10 (2) Whenever, by the laws or regulations of any other state or jurisdiction,
11 any limitation of rights and privileges, conditions precedent, or any other
12 requirements are imposed upon residents of this state who are nonresident applicants
13 or licensees of such other state or jurisdiction in addition to, or in excess of, those
14 imposed on nonresidents pursuant to this Part, the same requirements shall be
15 imposed upon such residents of such other state or jurisdiction.

16 (3)(a) The commissioner of insurance shall not issue a license to any
17 nonresident applicant until such applicant has filed forms approved by the
18 commissioner which designate the commissioner as his true and lawful agent, upon
19 whom may be served all lawful process in any action, suit, or proceeding instituted
20 by or on behalf of any interested person arising out of the applicant's insurance
21 business in this state. The designation shall constitute an agreement that such service
22 of process has the same legal force and validity as personal service of process upon
23 the person in the state.

24 (b) The service of process upon any such licensee in any action or
25 proceeding in any court of competent jurisdiction may be made by a party serving
26 the commissioner of insurance with appropriate copies thereof and the payment to
27 him of the fee authorized by R.S. 22:821.

28 (c) The commissioner of insurance shall, within ten days of being served,
29 forward a copy of such process by registered or certified mail, return receipt
30 requested, to the licensee at his last known address of record or principal place of

1 business, and the commissioner shall maintain copies of all such processes so served
2 upon him.

3 (4) The service of process upon any such licensee in any action or
4 proceeding instituted by the commissioner of insurance pursuant to this Part shall be
5 made by the commissioner by mailing such process by registered or certified mail,
6 return receipt requested, to the licensee at his last known address of record or
7 principal place of business.

8 C. A nonresident consultant who moves from one state to another state or a
9 resident consultant who moves from this state to another state shall file a change of
10 address and provide certification from the new resident state within thirty days of the
11 change of legal residence. No fee or license application is required.

12 §1808.6. Exemption from examination

13 A. An individual who applies for an insurance consultant license in this state
14 who was previously licensed as a resident insurance consultant for the same lines of
15 authority in another state shall not be required to complete any prelicensing
16 education or examination. This exemption is available only if the person is currently
17 licensed in that state or if the application is received within ninety days of the
18 cancellation of the applicant's previous license and if the prior state issues a
19 certification that, at the time of cancellation, the applicant was in good standing in
20 that state or by the National Association of Insurance Commissioners, its affiliates
21 or subsidiaries, and the certification indicates that the consultant is or was licensed
22 in good standing for the line of authority requested.

23 B. A person licensed as an insurance consultant in another state who moves
24 to this state shall make application within ninety days of establishing legal residence
25 in this state to become a resident licensee pursuant to R.S. 22:1808.3. No
26 prelicensing education or examination shall be required of that person to obtain a
27 consultant license for any line of authority previously held in the prior state except
28 where the commissioner of insurance determines otherwise by regulation.

29 C. Resident applicants shall be exempt from the requirement of an
30 examination for a license covering the same line or lines of insurance for which the

1 applicant was licensed under a similar license in this state within two years from the
2 date of expiration of the previous license, unless such previous license was revoked
3 or suspended or renewal was refused by the commissioner.

4 §1808.7. Assumed names

5 A. An insurance consultant doing business under any name other than the
6 consultant's legal name is required to notify the commissioner of insurance prior to
7 using the assumed name. Prior to the use of or changes to any trade name or names,
8 an insurance consultant shall provide written notification of such use or change to
9 the commissioner, on a form prescribed by the commissioner. A certified copy of
10 registration from the secretary of state shall accompany the application for a trade
11 name.

12 B. The use by any insurance consultant of a nonapproved trade name shall
13 subject such person to a fine not exceeding two hundred fifty dollars. Additionally,
14 if the insurance consultant continues to utilize a nonapproved trade name for ten or
15 more days after being notified by the commissioner to cease using the nonapproved
16 trade name, the insurance consultant will be subject to an additional fine not to
17 exceed five thousand dollars. If applicable, an insurance consultant shall comply
18 with the provisions of R.S. 51:281 et seq.

19 §1808.8. License denial, suspension, nonrenewal, or revocation

20 A. The commissioner of insurance may place on probation, suspend, revoke,
21 or refuse to issue, renew, or reinstate an insurance consultant license, or may levy a
22 fine not to exceed five hundred dollars for each violation occurring, up to ten
23 thousand dollars aggregate for all violations in a calendar year per applicant or
24 licensee, or any combination of these actions, for any one or more of the following
25 causes:

26 (1) Failing to comply with any prerequisite of state or federal law or
27 regulations for the issuance of such license.

28 (2) Providing incorrect, misleading, incomplete, or materially false
29 information, or omission of material information, in the license or renewal
30 application.

1 (3) Failing to account for or remit any premiums, monies, or properties
2 belonging to another which come into the possession of the applicant in the course
3 of doing insurance business, or improperly withholding, misappropriating,
4 converting, or failing to timely remit any premiums, monies, or properties received
5 in the course of doing insurance business, whether such premiums, monies, or
6 properties belong to policyholders, insurers, beneficiaries, claimants, or others.

7 (4) Using fraudulent, coercive, or dishonest practices or misrepresentation,
8 or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the
9 conduct of business such as might endanger the public.

10 (5) Misrepresenting the terms of an actual or proposed insurance contract,
11 binder, rider, plan, or application for insurance, including all forms or documents
12 that are attached, or will be attached, to an actual or proposed insurance contract,
13 binder, rider, plan, or application for insurance.

14 (6) Having admitted or been found to have committed any insurance unfair
15 trade practice under R.S. 22:1961 et seq. or fraud under R.S. 22:1964 et seq.

16 (7) The conviction or nolo contendere plea to any felony, participation in a
17 pretrial diversion program pursuant to a felony charge, suspension and deferral of
18 sentence and probation pursuant to Article 893 of the Code of Criminal Procedure,
19 or conviction of any misdemeanor involving moral turpitude or public corruption.

20 (8) Obtaining or attempting to obtain a license through misrepresentation or
21 fraud, or improperly using notes or any other reference material to complete an
22 examination for an insurance license, or otherwise cheating or attempting to cheat
23 on an examination for an insurance license of any kind.

24 (9) The adjudication of bankruptcy with debts related to the receipt or
25 transmittal of insurance premiums or other funds to an insurer or insured in any
26 fiduciary capacity of the applicant, or issuance to the Department of Insurance of an
27 insufficient fund or no-fund check.

28 (10) Forging another's name to an application for insurance or to any
29 document related to an insurance transaction.

1 (11) Having an insurance consultant license, or its equivalent, denied,
2 suspended, or revoked in this or any other state, province, district, or territory.

3 (12) Violating of any insurance laws of the United States, this state or any
4 state, province, district, or territory, or violating any lawful rule, regulation,
5 subpoena, or order of the commissioner of insurance or of the insurance officials of
6 another state.

7 (13) Refusing to submit physical evidence of identity or the conviction of a
8 felony, in accordance with R.S. 22:1922(B) and (C).

9 (14) Failing to comply with an administrative or court order imposing a child
10 support obligation.

11 (15) Failing to pay state income taxes or comply with any administrative or
12 court order directing payment of state income taxes.

13 (16) Employing or allowing to associate with his business, in any manner,
14 any person engaged in the business of insurance who has been convicted of a felony
15 under the laws of this state or any other state, the United States, or any foreign
16 country. As used in this Part, "business of insurance" means the writing of insurance
17 or the reinsuring of risks by an insurance consultant or insurer, including all acts
18 necessary or incidental to such writing or reinsuring, and the activities of persons
19 who act as, or are, officers, directors, agents, or employees of consultants or insurers,
20 or who are other persons authorized to act on behalf of such persons.

21 (17) The conviction of a felony involving dishonesty or breach of trust
22 pursuant to 18 U.S.C. §1033 and §1034, without written consent from the
23 commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute
24 regulating crimes by or affecting persons engaged in the business of insurance whose
25 activities affect interstate commerce.

26 B. If the commissioner denies any application for a license in accordance and
27 compliance with R.S. 49:961, the commissioner shall notify the applicant and advise
28 the applicant in writing of the reasons for the denial. An aggrieved party affected by
29 the commissioner's decision, act, or order may demand a hearing in accordance with
30 Chapter 12 of this Title, R.S. 22:2191 et seq.

1 C. In the event the commissioner suspends or revokes a license, or refuses
2 the renewal or reinstatement of a license, or levies a fine, with or without suspension,
3 revocation, or refusal to renew a license, the commissioner, in accordance and
4 compliance with R.S. 49:961, shall notify the licensee in writing of the
5 determination. Any such suspension or revocation of a license, or refusal to renew
6 or reinstate a license, shall include all lines of insurance for which the licensee was
7 authorized. An aggrieved party affected by the commissioner's decision, act, or
8 order may demand a hearing in accordance with Chapter 12 of this Title, R.S.
9 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, in
13 accordance and compliance with R.S. 49:961, that an individual licensee's violation
14 was known or should have been known by one or more of the partners, officers, or
15 managers acting on behalf of the business entity and the violation was not reported
16 to the Department of Insurance and no corrective action was undertaken timely. Any
17 such suspension or revocation of a license, or refusal to renew or reinstate a license,
18 shall include all lines of insurance for which the licensee was authorized.

19 E.(1) No licensee whose license has been revoked pursuant to this Section
20 shall be entitled to file another application for a license within one year from the
21 effective date of such revocation, or, if judicial review of such revocation is sought,
22 within one year from the date of final court order or decree affirming such
23 revocation. A subsequent application, when filed, may be refused by the
24 commissioner of insurance unless the applicant shows good cause why the
25 revocation of his license should not be deemed a prohibition to the issuance of a new
26 license.

27 (2) Any license which has been reissued following revocation shall be
28 revoked for a period not to exceed five years upon a second violation by the licensee
29 of any of the provisions of this Section. No licensee whose license has been revoked
30 pursuant to this Paragraph shall be entitled to file another application for a license

1 within the revocation period. A subsequent application, when filed, may be refused
2 by the commissioner of insurance unless the applicant shows good cause why the
3 revocation of his license should not be deemed a prohibition to the issuance of a new
4 license.

5 F. Upon suspension, revocation, or termination of the license of a resident
6 of this state, the commissioner shall notify the National Association of Insurance
7 Commissioners and the proper insurance official of each state for whom the
8 commissioner has executed a certificate as provided for herein.

9 G. If the commissioner revokes or suspends any nonresident's license
10 through a proceeding pursuant to this Section, he shall promptly notify the
11 appropriate insurance official of the licensee's place of residency of such action and
12 of the particulars thereof.

13 H. The commissioner of insurance shall retain the authority to enforce the
14 provisions of, and impose any penalty or remedy authorized by, this Section against
15 any person who is under investigation for or charged with a violation of this Section,
16 even if the person's license has been surrendered or has lapsed by operation of law.

17 §1808.9. Commissions

18 A. No person or business entity licensed and acting as an insurance
19 consultant under a written agreement pursuant to R.S. 22:1808.11, shall accept any
20 commission, service fee, brokerage, or other valuable consideration for selling,
21 soliciting, or negotiating insurance in this state.

22 B.(1) No member of an insurance advisory committee of any state agency,
23 board, commission, or of any political subdivision of this state, including but not
24 limited to school boards, levee boards, deep water port commissions, deep water
25 port, harbor and terminal districts, and the Louisiana Stadium and Exposition
26 District, shall split, pass on, or share with any insurance consultant or other person
27 who is not a member of his own firm or corporation and is not a member of such an
28 insurance advisory committee, all or any portion of the commission derived by such
29 committee from the purchase of insurance by such state agency, board, commission,
30 or political subdivision of the state without express authorization by official action

1 of such state agency, board, commission, or political subdivision of the state. Any
2 insurance consultant or other person who is not a member of such firm or corporation
3 and is not a member of such an insurance advisory committee who receives without
4 authorization all or any portion of such commission shall also be in violation of this
5 Section.

6 (2) Any person who violates the provisions of this Section shall, upon
7 conviction, be fined not less than one thousand dollars, nor more than five thousand
8 dollars per violation, or imprisoned for not more than two years, or both.

9 (3) Any conviction for a violation of the provisions of this Section shall
10 constitute grounds for suspension or revocation by the commissioner of insurance
11 of the license of such insurance consultant, in addition to those grounds of R.S.
12 22:1808.8.

13 §1808.10. Reciprocity; non-reciprocal states or other jurisdictions

14 A. The commissioner of insurance shall waive any requirements for a
15 nonresident license applicant with a valid license from his home state, except the
16 requirements imposed by R.S. 22:1808.5, if the applicant's home state awards
17 nonresident licenses to residents of this state on the same basis.

18 B. A nonresident consultant's satisfaction of his home state's continuing
19 education requirements for licensed insurance consultants shall constitute
20 satisfaction of this state's continuing education requirements if the nonresident
21 consultant's home state recognizes the satisfaction of its continuing education
22 requirements imposed upon consultants from this state on the same basis.

23 C. Whenever, by the laws or regulations of any other state or jurisdiction,
24 any limitation of rights and privileges, conditions precedent, or any other
25 requirements are imposed upon residents of this state who are nonresident applicants
26 or licensees of such other state or jurisdiction in addition to, or in excess of, those
27 imposed on nonresidents pursuant to this Part, the same such requirements shall be
28 imposed upon such residents of such other state or jurisdiction. This Part shall not
29 apply to fees, which shall be as authorized by R.S. 22:821.

1 §1808.11. Disclosure agreement and compensation

2 A. Prior to providing consulting services, a person licensed as a consultant
 3 pursuant to this Part shall disclose all of the following in a written contract signed
 4 by the party receiving the consulting services:

5 (1) The services to be provided by the consultant to the insured and
 6 prospective insureds.

7 (2) The beginning and ending date of the agreement.

8 (3) Any insurance to which the contract for consulting services applies.

9 (4) The arrangements for compensation of the consultant, whether by a flat
 10 rate, hourly rate, or other valuable consideration.

11 (5) Whether the consultant is dually licensed as an insurance producer.

12 (6) Whether the consultant has any financial or business interest in or
 13 affiliation with any insurance producer, broker, or insurance company involved
 14 within the scope of the consulting work.

15 B. A copy of every consulting contract shall be retained by the consultant for
 16 not less than five years after the expiration of the consulting contract.

17 C. No licensed insurance consultant may receive any fee for consulting
 18 services, unless such compensation is based upon a prior written contract as required
 19 by this Section.

20 D. If a licensed insurance consultant has received the compensation outlined
 21 in the written consulting contract, it shall be conclusively presumed that the licensee
 22 was acting as a consultant with respect to any transactions related to the contract.

23 E. A consulting contract shall be made available to the Louisiana
 24 Department of Insurance within ten days of a written request.

25 §1808.12. Prohibited acts

26 A.(1) No person licensed and acting as an insurance consultant under a
 27 written agreement pursuant to R.S. 22:1808.11, shall sell, solicit, make an
 28 application for, procure, negotiate for, or place for others, any policies for any lines
 29 of insurance.

1 (2) No insurer or insurance producer shall pay any money or commission or
2 brokerage, or give or allow any valuable consideration or compensation to any
3 person or business entity duly licensed and acting as an insurance consultant under
4 a written agreement pursuant to R.S. 22:1808.11.

5 (3) A consultant who is also licensed as an insurance producer shall not,
6 when representing himself as an insurance consultant under a written agreement
7 pursuant to R.S. 22:1808.11, solicit, sell, or negotiate contracts of insurance or
8 otherwise act as an insurance producer, and shall not receive directly or indirectly
9 from an insurance company, broker, or insurance producer any money or
10 commission or brokerage, or give or allow any valuable consideration or
11 compensation for the solicitation, negotiation, application, sale or placement of
12 insurance coverages which were the subject of a written consulting contract as
13 required by R.S. 22:1808.11 during the term of the written consulting contract.

14 (4) An insurance producer who has a financial or business interest or
15 affiliation with an insurance consultant acting as a consultant under a written
16 contract as required by R.S. 22: 1808.11, shall not solicit, negotiate or sell insurance,
17 either directly or indirectly, with respect to the insurance risks of the insured or
18 prospective insured which were the subject of the consulting contract during the term
19 of the written consulting contract.

20 (5) An insurance consultant shall not have a direct or indirect financial
21 interest in any aspect of their consulting work, other than the consulting fee
22 compensation established in the written contract with the insured.

23 (6) An insurance consultant shall not solicit employment or engagement,
24 directly or indirectly, for or on behalf of any insurance producer, attorney at law,
25 contractor, or other person with which the insurance consultant has a business
26 relationship or financial interest. Nothing in this Part shall be interpreted to prevent
27 an insurance consultant from recommending a particular insurance producer,
28 attorney, contractor, or other person; however, the insurance consultant is prohibited
29 from collecting any fee, compensation, or other valuable consideration for such
30 referral.

1 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
2 limitations are hereby continued in effect by incorporation into this Chapter by
3 citation:

4 * * *

5 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
6 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,
7 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466,
8 1488, 1546, 1559, 1566(D), 1644, 1656, 1723, 1796, 1801, 1808.3, 1927, 1929,
9 1983, 1984, 2036, 2056, 2085, 2091, 2293, 2303

10 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____