

2018 Regular Session

HOUSE BILL NO. 607

BY REPRESENTATIVE SEABAUGH

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

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AN ACT

To amend and reenact R.S. 22:1983(E)(introductory paragraph) and (2), (G), and (H), 1984(G), and 2191(A)(2) and to enact R.S. 22:1983(E)(3), relative to examinations and investigations by the commissioner of insurance; to authorize an investigatory hearing for the purposes of obtaining additional information; to provide for appellate review of examination reports; to provide for appellate review of certain fines; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1983(E)(introductory paragraph) and (2), (G), and (H), 1984(G), and 2191(A)(2) are hereby amended and reenacted and R.S. 22:1983(E)(3) is hereby enacted to read as follows:

§1983. Examination reports

* * *

E. Within thirty days of the end of the period allowed for the receipt of written submissions or rebuttals, as provided for in Subsections B and D of this Section, the commissioner shall 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 ~~either~~ doing one of the following:

* * *

1 (2) ~~Rejecting the examination report and ordering a hearing pursuant to the~~
2 ~~provisions of Chapter 12 of this Title, for purposes of obtaining additional~~
3 ~~documentation, data, information, and testimony.~~

4 (3) Ordering, either on the commissioner's own authority or upon the written
5 request of the company, an investigatory hearing for the purposes of obtaining
6 additional documentation, data, information, and testimony. The hearing shall be
7 held in accordance with all of the following:

8 (a) The hearing shall be conducted by the commissioner or the
9 commissioner's authorized representative and shall be conducted as a nonadversarial
10 confidential investigatory proceeding for the resolution of any inconsistencies,
11 discrepancies, or disputed issues apparent upon the face of the filed examination
12 report or raised by or as a result of the commissioner's review of relevant workpapers
13 or by the written submission or rebuttal of the company.

14 (b) The commissioner shall not appoint an examiner as an authorized
15 representative to conduct the hearing.

16 (c)(i) The hearing shall proceed expeditiously with discovery by both parties.
17 Discovery by the company shall be limited to the examiner's workpapers that tend
18 to substantiate any assertions set forth in any written submission or rebuttal.

19 (ii) The commissioner or the commissioner's authorized representative may
20 issue subpoenas for the attendance of any witnesses or the production of any
21 documents deemed relevant to the investigation whether under the control of the
22 department, the company, or other persons. The documents produced shall be
23 included in the record and testimony taken by the commissioner or the
24 commissioner's authorized representative shall be under oath and preserved for the
25 record.

26 (iii) Nothing contained in this Paragraph shall require the department,
27 pursuant to the hearing or as part of discovery, to disclose information or records that
28 would indicate or show the existence or content of any investigation or activity of a
29 criminal justice agency.

1 take any action the commissioner considers necessary and appropriate to cure any
2 violation of any law, regulation, or prior order of the commissioner.

3 * * *

4 §1984. Commissioner of insurance to conduct financial and market analysis of
5 insurers and regulated entities

6 * * *

7 G.(1) Any insurer or regulated entity against whom a fine has been levied
8 shall be given thirty days notice of ~~such~~ the action. Upon receipt of this notice, the
9 aggrieved insurer or regulated entity may apply for and shall be entitled to ~~a hearing~~
10 pursuant to R.S. 22:2191 et seq. an appeal to the Nineteenth Judicial District Court.

11 (2) The court shall conduct a review without a jury and by trial de novo,
12 except that if all parties, including the commissioner, so stipulate, the review shall
13 be confined to the record. Portions of the record may be introduced by stipulation
14 into evidence in a trial de novo as to those parties so stipulating.

15 (3) The filing of an appeal pursuant to this Section shall stay the application
16 of any rule, regulation, order, or other action of the commissioner to the appealing
17 party unless the court, after giving the party notice and an opportunity to be heard,
18 determines that a stay would be detrimental to the interest of policyholders,
19 shareholders, creditors, or the public.

20 (4) The appeal proceedings provided for pursuant to this Subsection shall be
21 confidential, and all filings in the proceeding shall be sealed.

22 * * *

23 §2191. Hearings

24 A. The division of administrative law shall hold a hearing in accordance with
25 the Administrative Procedure Act, R.S. 49:950 et seq., and shall hold a hearing under
26 either of the following circumstances:

27 * * *

28 (2) Upon written demand for a hearing made by any person aggrieved by any
29 act, order of the commissioner, or failure of the commissioner of insurance to act,

Proposed law 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.

Proposed law 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)(introductory paragraph) and (2), (G), and (H), 1984(G), and 2191(A)(2); Adds R.S. 22:1983(E)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Authorize the commissioner to order an investigatory hearing for the purposes of obtaining additional information.
2. Provide for the hearing procedure.
3. Make technical changes.