

2025 Regular Session

SENATE BILL NO. 110

BY SENATOR JACKSON-ANDREWS

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

INSURERS. Provides relative to employee benefit plans preempted by the Employee Retirement Income Security Act of 1974. (gov sig)

AN ACT

To amend and reenact the introductory paragraph of R.S. 22:1044(A), R.S. 22:1044(A)(4), the introductory paragraph of 1060.1, 1060.1(6), 1061(2)(b), the introductory paragraph of 1221, 1221(3), the introductory paragraph of 1831, 1831(14), and 1852(7) and to enact R.S. 22:470, relative to employee benefit plans preempted by the Employee Retirement Income Security Act of 1974; to provide for applicability; to provide for and delete certain references to preemption; to provide for severability; to provide for technical changes; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 22:1044(A), R.S. 22:1044(A)(4), the introductory paragraph of 1060.1, 1060.1(6), 1061(2)(b), the introductory paragraph of 1221, 1221(3), the introductory paragraph of 1831, 1831(14), and 1852(7) are hereby amended and reenacted and R.S. 22:470 is hereby enacted to read as follows:

§470. Applicability; preemption; severability

The provisions of this Title apply to employee benefit plans only to the extent not preempted by the Employee Retirement Income Security Act of 1974.

If any phrase, clause, sentence, or provision of this Title is declared preempted by the Employee Retirement Income Security Act of 1974 through a final, definitive decision by a court of competent jurisdiction, or if the commissioner determines application of a provision of this Title to an employee benefit plan is reasonably likely to be preempted by the Employee Retirement Income Security Act of 1974, the validity of the remainder of this Title and the applicability thereof to any other entity, person, or circumstance shall not be affected.

* * *

§1044. Health coverage; participants in clinical trials

A. As used in this Section, the following terms and phrases ~~shall~~ have the following meanings unless the context clearly indicates otherwise:

* * *

(4) "Health insurance issuer" means an insurance company, including a health maintenance organization as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of this Title; ~~unless preempted as an employee benefit plan under the Employee Retirement Income Security Act of 1974.~~ For purposes of this Section and Subpart B of Part II of Chapter 6 of this Title, a "health insurance issuer" ~~shall include~~ **includes** the Office of Group Benefits programs.

* * *

§1060.1. Definitions

As used in this Subpart, the following definitions ~~shall~~ apply:

* * *

(6) "Health insurance issuer" or "issuer" means any entity that offers a health benefit plan through a policy, contract, or certificate of insurance subject to state law that regulates the business of insurance. For purposes of this Subpart, a "health insurance issuer" or "issuer" ~~shall include but not be~~ **includes but is not** limited to a health maintenance organization as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of this Title. A "health insurance issuer" or "issuer" ~~shall not~~

1 ~~include any entity preempted as an employee benefit plan under the Employee~~
 2 ~~Retirement Income Security Act of 1974 or~~ **does not include** the Office of Group
 3 Benefits.

4 * * *

5 §1061. Definitions

6 * * *

7 (2) Definitions relating to health insurance are:

8 * * *

9 (b) "Health insurance issuer" means an insurance company, including a health
 10 maintenance organization, as defined and licensed to engage in the business of
 11 insurance under Subpart I of Part I of Chapter 2 of this Title ~~unless preempted as an~~
 12 ~~employee benefit plan under the Employee Retirement Income Security Act of 1974.~~
 13 ~~Such~~ **The** term does not include a group health plan.

14 * * *

15 §1221. Definitions

16 For purposes of this Subpart, the following definitions ~~shall~~ apply:

17 * * *

18 (3) "Health insurance issuer" means an insurance company, including a health
 19 maintenance organization as defined and licensed pursuant to Subpart I of Part I of
 20 Chapter 2 of this Title, ~~unless preempted as an employee benefit plan under the~~
 21 ~~Employee Retirement Income Security Act of 1974.~~

22 * * *

23 §1831. Definitions

24 As used in this Subpart, the following terms ~~shall be~~ **are** defined as follows:

25 * * *

26 (14) "Health insurance issuer" or "issuer" means any entity that offers health
 27 insurance coverage through a policy, contract, or certificate of insurance subject to
 28 state law that regulates the business of insurance. For purposes of this Subpart, a
 29 "health insurance issuer" or "issuer" ~~shall include but not be~~ **includes but is not**

limited to a health maintenance organization as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of this Title. ~~A "health insurance issuer" or "issuer" shall not include any entity preempted as an employee benefit plan under the Employee Retirement Income Security Act of 1974.~~

* * *

§1852. Definitions

As used in this Subpart, the following terms are defined as follows:

* * *

(7) "Health insurance issuer" means an insurance company, including a health maintenance organization as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of this Title, ~~unless preempted as an employee benefit plan under the Employee Retirement Income Security Act of 1974.~~ For purposes of this Subpart, a "health insurance issuer" includes the Office of Group Benefits, a pharmacy benefit manager, and any person acting on behalf of a pharmacy benefit manager.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

DIGEST
SB 110 Original 2025 Regular Session Jackson-Andrews

Present law provides for the La. Insurance Code (Title 22 of the La. Revised Statutes of 1950).

Present law applies varying definitions of "health insurance issuer" within the La. Insurance Code. Further provides that a health insurance issuer does not include an entity preempted as an employee benefit plan under ERISA.

Proposed law (R.S. 22:470) deletes certain present law references to the exclusion of health insurance issuers preempted as employee benefit plans under ERISA. Further specifies that

the La. Insurance Code applies to an employee benefit plan only to the extent that the plan is not preempted by ERISA.

Proposed law provides that if any provision of the La. Insurance Code is preempted by ERISA through a final, definitive decision by a court of competent jurisdiction, or if the commissioner of insurance determines application of a provision of the La. Insurance Code to an employee benefit plan is reasonably likely to be preempted by ERISA, the validity of the remainder of the La. Insurance Code and the Code's applicability to any other entity, person, or circumstance will not be affected.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1044(A)(intro para), 1044(A)(4), 1060.1(intro para), 1061.1(6), 1061(2)(b), 1221(intro para), 1221(3), 1831(intro para), 1831(14), and 1852(7); adds R.S. 22:470)