

Regular Session, 2012

HOUSE BILL NO. 595

BY REPRESENTATIVE CROMER

INSURANCE: Provides for technical recodification of certain provisions of the La. Insurance Code

1 AN ACT

2 To amend and reenact R.S. 22:23(D)(3)(b), 242(10), 653(A)(introductory paragraph),

3 851(A), 912(C), (D), and (E), 931(A)(10)(a), 1821(A), (C), (D)(1), (2)(e) and

4 (g)(i)(aa), and (3)(c)(introductory paragraph) and (i), (d)(introductory paragraph) and

5 (i) through (iv), and (e), and (F)(1), 1825(B)(introductory paragraph) and

6 (C)(introductory paragraph) and (4), 1859(F), 1875, 1879(A), (B)(1)(introductory

7 paragraph), and (C), 1880(B)(1)(introductory paragraph), (C)(introductory

8 paragraph), and (D)(introductory paragraph), 1892(B)(1), (C)(1), and (D)(2),

9 1901(4), 1902(A)(2) and (9), 1903(C)(2)(introductory paragraph), 1904,

10 1905(C)(introductory paragraph) and (1), 1907, 1909(B) and (C), 1921(B) and (C),

11 1923(1)(a) and (g), 1926(A), 1927(B), 1928(B), 1941, 1942, 1944, 1945, 1946,

12 1962(C) and (F), 1964(1)(g), (7)(a), (b), and (h), (9), (10)(c), (11), (13), (15)(c)(i),

13 (iii), and (vii), (19)(b)(i)(introductory paragraph) and (c)(i), (20), (24), and (25),

14 1967, 1968, 1971(C), 1973(B)(introductory paragraph), 1981(A)(2) and (3) and

15 (C)(introductory paragraph), 1983(D) through (H) and (I)(1) and (2), 1984(A) and

16 (G), 1988, 1989, 1992, 1994(A), 2001, 2002(2) and (4), 2003(1)(e) and (f), 2005,

17 2006, 2008(A), 2009(E)(2) and (4), 2010(D), 2012(A)(introductory paragraph) and

18 (3) and (B), 2013(B), 2018(A) and (B), 2019, 2020(C), 2021(A), 2023(C)(2),

19 2025(4), 2026, 2027(B), 2028(B), (C), and (D)(6), 2029, 2032, 2033(B), 2034(G)

20 and (H), 2035(A) and (D), 2036(C), 2038(3), 2044, 2055(6)(a)(ii), (7)(introductory

1 paragraph) and (a), (9)(a)(introductory paragraph) and (i) and (b), (12), and (15),  
2 2056(C)(2)(f), 2058(A)(1)(a)(i) and (ii), (b)(i) and (ii), and (3)(a)(iv), 2059(A)(1),  
3 (C)(6), and (D), 2060(A)(1), 2061.1(A), 2062(A)(2)(a)(introductory paragraph) and  
4 (i) and (ii), (5)(a), and (6), 2083(A)(2)(introductory paragraph) and (a) and  
5 (C)(introductory paragraph) and (1), 2084(6), 2085(C)(1) and (3)(g), 2086(B) and  
6 (D), 2087(A)(2), (B)(1)(introductory paragraph) and (a) and (2)(introductory  
7 paragraph), (C)(2), (D)(introductory paragraph) and (3) and (4)(a), (E),  
8 (I)(introductory paragraph), (J), and (M)(3), 2088(D), 2089(A)(2) and (C)(8),  
9 2091(A)(2) and (E)(1), 2092(D), 2093(E)(1), 2098(B) and (C)(introductory  
10 paragraph), 2112, 2113, 2114, 2118, 2119, 2132(C) and (D), 2133(2), 2135(A),  
11 2147(A)(2), 2161(A)(introductory paragraph) and (6), 2171(A), (B), (C)(7), (13),  
12 and (21), (E)(6) and (14), (F)(5) and (12), and (G)(5), (11), and (12), 2181(B),  
13 2191(A)(introductory paragraph) and (1), 2205, 2206, 2208, 2221(introductory  
14 paragraph), 2222(D)(introductory paragraph), 2223(F), 2243(2), 2244(A)(2),  
15 2261(B), 2291, 2292(introductory paragraph), 2293(D)(2)(a) and (f) and (3),  
16 2294(A)(5), 2296(B)(1), 2297(D)(8), 2302(E), 2307(G), 2308, 2313, 2314(F),  
17 2315(A), 2316, 2326(A), 2363(B), 2364(A) and (F), and 2369(E)(1) and to repeal  
18 R.S. 22:1824(C), 2028(D)(3), 2161(A)(7), (12), (34), and (37), 2171(C)(20), (E)(17),  
19 and (G)(13), and 2303(D)(1), all relative to technical recodification of certain  
20 provisions of the Louisiana Insurance Code, including correction of citations,  
21 updates of terms and language, reorganization of provisions, elimination of obsolete  
22 or ineffective provisions, and harmonizing of inconsistent provisions; and to provide  
23 for related matters.

24 Be it enacted by the Legislature of Louisiana:

25 Section 1. R.S. 22:23(D)(3)(b), 242(10), 653(A)(introductory paragraph), 851(A),  
26 912(C), (D), and (E), 931(A)(10)(a), 1821(A), (C), (D)(1), (2)(e) and (g)(i)(aa), and  
27 (3)(c)(introductory paragraph) and (i), (d)(introductory paragraph) and (i) through (iv), and  
28 (e), and (F)(1), 1825(B)(introductory paragraph) and (C)(introductory paragraph) and (4),  
29 1859(F), 1875, 1879(A), (B)(1)(introductory paragraph), and (C), 1880(B)(1)(introductory

1 paragraph), (C)(introductory paragraph), and (D)(introductory paragraph), 1892(B)(1),  
2 (C)(1), and (D)(2), 1901(4), 1902(A)(2) and (9), 1903(C)(2)(introductory paragraph), 1904,  
3 1905(C)(introductory paragraph) and (1), 1907, 1909(B) and (C), 1921(B) and (C),  
4 1923(1)(a) and (g), 1926(A), 1927(B), 1928(B), 1941, 1942, 1944, 1945, 1946, 1962(C) and  
5 (F), 1964(1)(g), (7)(a), (b), and (h), (9), (10)(c), (11), (13), (15)(c)(i), (iii), and (vii),  
6 (19)(b)(i)(introductory paragraph) and (c)(i), (20), (24), and (25), 1967, 1968, 1971(C),  
7 1973(B)(introductory paragraph), 1981(A)(2) and (3) and (C)(introductory paragraph),  
8 1983(D) through (H) and (I)(1) and (2), 1984(A) and (G), 1988, 1989, 1992, 1994(A), 2001,  
9 2002(2) and (4), 2003(1)(e) and (f), 2005, 2006, 2008(A), 2009(E)(2) and (4), 2010(D),  
10 2012(A)(introductory paragraph) and (3) and (B), 2013(B), 2018(A) and (B), 2019, 2020(C),  
11 2021(A), 2023(C)(2), 2025(4), 2026, 2027(B), 2028(B), (C), and (D)(6), 2029, 2032,  
12 2033(B), 2034(G) and (H), 2035(A) and (D), 2036(C), 2038(3), 2044, 2055(6)(a)(ii),  
13 (7)(introductory paragraph) and (a), (9)(a)(introductory paragraph) and (i) and (b), (12), and  
14 (15), 2056(C)(2)(f), 2058(A)(1)(a)(i) and (ii), (b)(i) and (ii), and (3)(a)(iv), 2059(A)(1),  
15 (C)(6), and (D), 2060(A)(1), 2061.1(A), 2062(A)(2)(a)(introductory paragraph) and (i) and  
16 (ii), (5)(a), and (6), 2083(A)(2)(introductory paragraph) and (a) and (C)(introductory  
17 paragraph) and (1), 2084(6), 2085(C)(1) and (3)(g), 2086(B) and (D), 2087(A)(2),  
18 (B)(1)(introductory paragraph) and (a) and (2)(introductory paragraph), (C)(2),  
19 (D)(introductory paragraph) and (3) and (4)(a), (E), (I)(introductory paragraph), (J), and  
20 (M)(3), 2088(D), 2089(A)(2) and (C)(8), 2091(A)(2) and (E)(1), 2092(D), 2093(E)(1),  
21 2098(B) and (C)(introductory paragraph), 2112, 2113, 2114, 2118, 2119, 2132(C) and (D),  
22 2133(2), 2135(A), 2147(A)(2), 2161(A)(introductory paragraph) and (6), 2171(A), (B),  
23 (C)(7), (13), and (21), (E)(6) and (14), (F)(5) and (12), and (G)(5), (11), and (12), 2181(B),  
24 2191(A)(introductory paragraph) and (1), 2205, 2206, 2208, 2221(introductory paragraph),  
25 2222(D)(introductory paragraph), 2223(F), 2243(2), 2244(A)(2), 2261(B), 2291,  
26 2292(introductory paragraph), 2293(D)(2)(a) and (f) and (3), 2294(A)(5), 2296(B)(1),  
27 2297(D)(8), 2302(E), 2307(G), 2308, 2313, 2314(F), 2315(A), 2316, 2326(A), 2363(B),  
28 2364(A) and (F), and 2369(E)(1) are hereby amended and reenacted to read as follows:

1 §23. Exclusive use of expirations

2 \* \* \*

3 D.

4 \* \* \*

5 (3)

6 \* \* \*

7 (b) This Paragraph shall not apply to any policy issued under the home  
8 service marketing distribution system ~~pursuant to R.S. 22:1553(C)(2)~~. referenced in  
9 R.S. 22:1962(C).

10 \* \* \*

11 §242. Definitions

12 As used in this Subpart:

13 \* \* \*

14 (10) "Point of service policy" means any policy of coverage that meets the  
15 definition of a health and accident insurance policy pursuant to R.S. 22:34, 35, 851-  
16 870, 872-883, 885-889, 901, 902, 944, 945, 972-983, 985-990, 992-1015, 1021-1048,  
17 1091-1097, 1111, 1156, 1261-1270, 1281-1283, 1285-1288, 1290-1293, 1295-1297,  
18 1331, 1333-1335, 1441, ~~1442~~, 1555, 1811, 1821-1823, and 1891-1894.

19 \* \* \*

20 §653. Qualified United States financial institutions

21 A. Only for purposes of R.S. 22:652(3), a "qualified United States financial  
22 institution" means an institution ~~which:~~ that:

23 \* \* \*

24 §851. Scope of ~~Part~~ Chapter

25 A. The applicable provisions of this ~~Part~~ Chapter shall apply to insurance  
26 other than ocean marine and foreign trade insurances. This ~~Part~~ Chapter shall not  
27 apply to life insurance policies or annuities not issued for delivery in this state nor

1 delivered in this state. This ~~Part~~ Chapter also shall not apply to any health and  
2 accident insurance policy not issued for delivery in this state nor delivered in this  
3 state, except for any group policy covering residents of Louisiana, regardless of  
4 where it was issued or delivered.

5 \* \* \*

6 §912. Exemption of proceeds; life, endowment, annuity

7 \* \* \*

8 C. The lawful beneficiary designated in an ~~Education Assistance Account~~  
9 education savings account depositor's agreement to receive account funds in the  
10 event of the account owner's death, including the account owner's estate, of the funds  
11 contained in an ~~Education Assistance Account~~ education savings account established  
12 pursuant to R.S. 17:3095 shall be entitled to the proceeds and avails of the ~~Education~~  
13 ~~Assistance Account~~ education savings account against the creditors and  
14 representatives of the account owner or the person effecting the account, or the estate  
15 of either, and against the heirs and legatees of either person, ~~saving~~ except the rights  
16 of forced heirs, and the proceeds and avails shall also be exempt from all liability for  
17 any debt of the beneficiary or estate existing at the time the proceeds and avails are  
18 made available for his own use.

19 D.(1) The provisions of Subsections A, B, and C of this Section shall apply:

20 (a) Whether or not the right to change the beneficiary is reserved or  
21 permitted in the policy, contract, or ~~Education Assistance Account~~ education savings  
22 account depositor's agreement.

23 (b) Whether or not the policy, contract, or ~~Education Assistance Account~~  
24 education savings account depositor's agreement is made payable to the person  
25 whose life is insured, to his estate, or to the estate of an annuitant or to the estate of  
26 an ~~Education Assistance Account~~ education savings account owner if the  
27 beneficiary, assignee, or payee shall predecease the person.

28 (2) This Subsection shall not be construed so as to defeat any policy or  
29 contract provision which provides for disposition of proceeds in the event the

1 beneficiary, assignee, or payee shall predecease the insured, annuitant, or ~~Education~~  
2 ~~Assistance Account~~ education savings account owner.

3 E. No person shall be compelled to exercise any rights, powers, options, or  
4 privileges under any policy, contract, or ~~Education Assistance Account~~ education  
5 savings account depositor's agreement.

6 \* \* \*

7 SUBPART B. INDIVIDUAL LIFE

8 §931. Life insurance policies; standard provisions

9 A. No policy of life insurance, except as stated in Subsection C of this  
10 Section, shall be delivered or issued for delivery in this state unless it contains in  
11 substance the following provision or provisions which, in the opinion of the  
12 commissioner of insurance, are more favorable to the policyholder:

13 \* \* \*

14 (10)(a) Free look period. ~~(a)~~ A provision, prominently printed on the life  
15 insurance policy or attached thereto, notifying the insured that ten days are allowed;  
16 from the date of his receipt of the policy, to examine its provisions. If the policy is  
17 not as explained by the company, its representative, or as understood by the insured,  
18 the policy may be surrendered within the ten-day period, and any premium advanced  
19 by the insured, upon the surrender, shall be immediately returned to him. The  
20 insurer shall have the option of printing, attaching, or endorsing the notice required  
21 in this Subparagraph or a notice of equal prominence which, in the opinion of the  
22 commissioner of insurance, is not less favorable to the policyholder. This  
23 Subparagraph shall not apply to travel insurance policies which by their terms are not  
24 renewable.

25 \* \* \*

26 §1821. Payment of claims; health and accident policies; prospective review;  
27 penalties; self-insurers; telemedicine reimbursement by insurers

28 A. All claims arising under the terms of health and accident contracts issued  
29 in this state, except as provided in Subsection B; of this Section, shall be paid not

1 more than thirty days from the date upon which written notice and proof of claim,  
 2 in the form required by the terms of the policy, are furnished to the insurer unless  
 3 just and reasonable grounds, such as would put a reasonable and prudent  
 4 businessman on his guard, exist. The insurer shall make payment at least every thirty  
 5 days to the assured during that part of the period of his disability covered by the  
 6 policy or contract of insurance during which the insured is entitled to such payments.  
 7 Failure to comply with the provisions of this Section shall subject the insurer to a  
 8 penalty payable to the insured of double the amount of the health and accident  
 9 benefits due under the terms of the policy or contract during the period of delay,  
 10 together with ~~attorney's~~ attorney fees to be determined by the court. Any court of  
 11 competent jurisdiction in the parish where the insured lives or has his domicile,  
 12 excepting a justice of the peace court, shall have jurisdiction to try such cases.

\* \* \*

14 C. Any person, partnership, corporation or other organization, or the State  
 15 of Louisiana which provides or contracts to provide health and accident benefit  
 16 coverage as a self-insurer for his or its employees, stockholders, or any other  
 17 persons, shall be subject to the provisions of this Section, including the provisions  
 18 relating to penalties and attorney fees, without regard to whether the person or  
 19 organization is a commercial insurer; ~~provided,~~ however, this Section shall not apply  
 20 to collectively bargained union welfare plans other than health and accident plans.

21 D.(1) In any event where the contract between an insurer or self-insurer and  
 22 the insured is issued or delivered in this state and contains a provision ~~whereby~~ in  
 23 which in non-emergency cases the insured is required to be prospectively evaluated  
 24 through a pre-hospital admission certification, pre-inpatient service eligibility  
 25 program, or any similar pre-utilization review or screening procedure prior to the  
 26 delivery of contemplated hospitalization, inpatient or outpatient health care, or  
 27 medical services which are prescribed or ordered by a duly licensed health care  
 28 provider who possesses admitting and clinical staff privileges at an acute care health  
 29 care facility or ambulatory surgical care facility, the insurer, self-insurer, ~~third party~~



1 (c) For the purposes of this Subsection, the term "unreasonable reduction"  
2 shall mean the decreasing or limiting of: either of the following:

3 (i) Previously certified or approved health care or medical services as  
4 contracted for between the insurer and insured; ~~or~~

5 \* \* \*

6 (d) For the purposes of this Subsection, an "unreasonable denial" shall mean  
7 the failure to: do any of the following:

8 (i) Review a request from a duly licensed health care provider by the  
9 insurer's or self-insurer's review or screening procedure; ~~or~~

10 (ii) Review a request from the insured within the time period as provided for  
11 in the contract between the insurer or self-insurer and the insured, which time period  
12 shall not exceed two work days as provided for in Subparagraph 3(a); of this  
13 Paragraph.

14 (iii) Deliver the contracted for health care or medical services previously  
15 certified or approved by the insurer's or self-insurer's review or screening procedure  
16 for medically necessary treatment or care as mandated by and provided for in the  
17 contract between the insurer or self-insurer and the insured; ~~or~~

18 (iv) Review a request from a duly licensed health care provider by the  
19 insurer's or self-insurer's review or screening procedure for an extension of the  
20 original certified or approved duration of health care or medical services; ~~or~~

21 \* \* \*

22 (e) For the purposes of this Subsection, "medically necessary treatment or  
23 care"; shall mean contemplated hospitalization, inpatient or outpatient health care,  
24 or medical services recommended for appropriate treatment or care in accordance  
25 with nationally accepted current medical criteria.

26 \* \* \*

27 F.(1) Notwithstanding any provision of any policy or contract of insurance  
28 or health benefits issued, ~~after June 16, 1995,~~ whenever such policy provides for  
29 payment, benefit, or reimbursement for any health care service, including but not

1 limited to diagnostic testing, treatment, referral, or consultation, and such health care  
 2 service is performed via transmitted electronic imaging or telemedicine, such a  
 3 payment, benefit, or reimbursement under such policy or contract shall not be denied  
 4 to a licensed physician conducting or participating in the transmission at the  
 5 originating health care facility or terminus who is physically present with the  
 6 individual who is the subject of such electronic imaging transmission and is  
 7 contemporaneously communicating and interacting with a licensed physician at the  
 8 receiving terminus of the transmission. The payment, benefit, or reimbursement to  
 9 such a licensed physician at the originating facility or terminus shall not be less than  
 10 seventy-five percent of the reasonable and customary amount of payment, benefit,  
 11 or reimbursement which that licensed physician receives for an intermediate office  
 12 visit.

13 \* \* \*

14 §1825. Billing audit guidelines, rules, and regulations

15 \* \* \*

16 B. The rules, regulations, or orders required by Subsection A of this Section  
 17 shall determine:

18 \* \* \*

19 C. The rules, regulations, and orders required by Subsection A of this  
 20 Section shall include but not be limited to the following parameters:

21 \* \* \*

22 (4) ~~Guidelines/qualifications~~ Guidelines and qualifications of both internal  
 23 and external auditors.

24 \* \* \*

25 §1859. Recoupment of health insurance claims payments

26 \* \* \*

27 F. For purposes of this Section, a health insurance issuer shall include, in  
 28 addition to the health insurance issuer, its agent, or any other party that makes

1 payment directly to a pharmacy or pharmacist for prescription drugs, other products  
2 and supplies, and pharmacist services identified on a claim.

3 \* \* \*

4 §1875. Billing by noncontracted facility-based physicians providing services in a  
5 base health care facility

6 If a facility-based physician who is a noncontracted health care provider  
7 provides health care services in a base health care facility to an enrollee or insured  
8 and files a claim with a health insurance issuer for such facility-based services, the  
9 health insurance issuer shall provide the facility-based physician with an explanation  
10 of benefits as to any payment determination thereof. Nothing contained ~~herein in his~~  
11 Subpart shall ~~supersede~~ supercede the provisions of R.S. 22:263(D).

12 \* \* \*

13 §1879. Louisiana consumer health care provider network disclosure

14 A.(1) ~~No later than March 31, 2010, or within~~ Within thirty days of the  
15 effective date of a new contract, each hospital or ambulatory surgical center,  
16 hereinafter referred to as "facility" or "contracted facility" for purposes of this  
17 Section, shall provide to each health insurance issuer with which it contracts, the  
18 National Provider Identifier (NPI) as set forth in 45 CFR §162.402 et. seq., name,  
19 business address, and business telephone number of each individual or group of  
20 anesthesiologists, pathologists, radiologists, emergency medicine physicians, and  
21 neonatologists who provide services at that facility. Thereafter, the facility shall  
22 notify each health insurance issuer of any changes to the information as soon as  
23 possible but not later than thirty days following any change.

24 (2) ~~No later than March 31, 2010, or within~~ Within thirty days of the  
25 effective date of a new contract, each individual or group of anesthesiologists,  
26 pathologists, radiologists, emergency medicine physicians, and neonatologists who  
27 provide services at a contracted facility shall provide the health insurance issuer with  
28 which it is contracted, the NPI, name, business address, and business telephone  
29 number of each group or individual so contracted. Thereafter, the group or

1 individual so contracted shall notify each health insurance issuer of any changes to  
2 the information as soon as possible but not later than thirty days following any  
3 change.

4 B.(1) Based on information received pursuant to Paragraphs (A)(1) and (2)  
5 of this Section, a health insurance issuer shall report on its website, ~~no later than June~~  
6 ~~30, 2010~~, in a format that is clear and easy for its enrollees to understand, the  
7 following information arranged by contracted facility:

8 \* \* \*

9 C. ~~No later than June 30, 2010~~, a A health insurance issuer shall provide a  
10 link to its website containing the information described in Subsection B of this  
11 Section to the Department of Insurance. ~~No later than July 31, 2010~~, the The  
12 Department of Insurance shall make ~~available on its website~~, the links received from  
13 health insurance issuers: available on its website.

14 \* \* \*

15 §1880. Balance billing disclosure

16 \* \* \*

17 B.(1) Health insurance issuer disclosure requirements. ~~No later than July 1,~~  
18 ~~2011, each~~ Each health insurance issuer shall provide the following balance billing  
19 disclosure notice:

20 \* \* \*

21 C. Facility disclosure requirements. ~~No later than July 1, 2011, each~~ Each  
22 health care facility shall:

23 \* \* \*

24 D. Facility-based physician disclosure requirements. ~~No later than July 1,~~  
25 ~~2011, whenever~~ Whenever a facility-based physician bills a patient who has health  
26 insurance coverage issued by a health insurance issuer that does not have a contract  
27 with the facility-based physician, the facility-based physician shall send a bill that  
28 includes all of the following items:

29 \* \* \*

1 §1892. Payment and adjustment of claims, policies other than life and health and  
2 accident; personal vehicle damage claims; extension of time to respond to  
3 claims during emergency or disaster; penalties; arson-related claims  
4 suspension

5 \* \* \*

6 B.(1) Failure to make such payment within thirty days after receipt of such  
7 satisfactory written proofs and demand therefor or failure to make a written offer to  
8 settle any property damage claim, including a third-party claim, within thirty days  
9 after receipt of satisfactory proofs of loss of that claim, as provided in Paragraphs  
10 (A)(1) and (4); of this Section, respectively, or failure to make such payment within  
11 thirty days after written agreement or settlement as provided in Paragraph (A)(2); of  
12 this Section when such failure is found to be arbitrary, capricious, or without  
13 probable cause, shall subject the insurer to a penalty, in addition to the amount of the  
14 loss, of fifty percent damages on the amount found to be due from the insurer to the  
15 insured, or one thousand dollars, whichever is greater, payable to the insured, or to  
16 any of said employees, or in the event a partial payment or tender has been made,  
17 fifty percent of the difference between the amount paid or tendered and the amount  
18 found to be due as well as reasonable attorney fees and costs. Such penalties, if  
19 awarded, shall not be used by the insurer in computing either past or prospective loss  
20 experience for the purpose of setting rates or making rate filings.

21 \* \* \*

22 C.(1) All claims brought by insureds, worker's compensation claimants, or  
23 third parties against an insurer shall be paid by check or draft of the insurer to the  
24 order of the claimant to whom payment of the claim is due pursuant to the policy  
25 provisions, or his attorney, or upon direction of such claimant to one specified;  
26 ~~provided~~, however, ~~that~~ the check or draft shall be made jointly to the claimant and  
27 the employer when the employer has advanced the claims payment to the claimant.



1 transaction of matters subsequent to effectuation of the contract and arising out of  
2 it, or any other manner of representing or assisting a person or insurer in the  
3 transaction of risks with respect to properties, risks, or exposures located or to be  
4 performed in this state.

5 \* \* \*

6 §1903. Placement of insurance business; prohibitions and exclusions

7 \* \* \*

8 C. This Section shall not apply to a person acting in this state in the  
9 placement of the following types of insurance:

10 \* \* \*

11 (2) ~~Reinsurance provided that~~ Reinsurance if such reinsurer meets the  
12 following requirements, unless waived by the commissioner:

13 \* \* \*

14 §1904. Insurance commissioner may institute legal proceedings against  
15 unauthorized insurer

16 Whenever the commissioner of insurance believes, from evidence  
17 satisfactory to him, that any person or insurer is violating or about to violate any  
18 provision of this Part or any order or requirement of the commissioner issued or  
19 promulgated pursuant to authority granted the commissioner by any provision of this  
20 Code or by law, he may bring an action in the name of the people of the State of  
21 Louisiana in the District Court for the Nineteenth Judicial District, Baton Rouge,  
22 Louisiana, against such person or insurer to enjoin such person or insurer from  
23 continuing such violation or engaging therein or doing any act in furtherance thereof.  
24 In such action, an order or judgment may be entered awarding such preliminary or  
25 final injunction as is proper.

26 §1905. Domestic insurer prohibited from issuing policies in state where  
27 unauthorized; commissioner's approval required

28 \* \* \*

1 C. The following constitute the exceptions to the ~~foregoing~~ provisions of  
2 Subsections A and B of this Section:

3 (1) Contracts entered into where the prospective ~~insurant~~ insured is  
4 personally present in a state in which the insurer is authorized to do business when  
5 he signs the application.

6 \* \* \*

7 §1907. Transacting business; constitutes appointment of agent for service of  
8 process; workers' compensation claims agent

9 A. The transacting of business in this state by a foreign or alien insurer  
10 without a certificate of authority is equivalent to an appointment by such insurer of  
11 the ~~Secretary~~ secretary of ~~State~~ state and his successor or successors in office to be  
12 its true and lawful attorney, upon whom may be served all lawful process in any  
13 action, suit, or proceeding maintained by the commissioner of insurance or arising  
14 out of such policy or contract of insurance, and the ~~said~~ transacting of business by  
15 such insurer is a signification of its agreement that any such service of process is of  
16 the same legal force and validity as personal service of process in this state upon it.

17 B. Such service of process shall be made by delivering and leaving with the  
18 secretary of state or with some person in apparent charge of his office two copies  
19 thereof and the payment to him of such fees as may be prescribed by law. The  
20 secretary of state shall ~~forthwith~~ mail by registered mail or by commercial courier,  
21 as defined in R.S. 13:3204(D), when the person to be served is located outside of this  
22 state one of the copies of such process to the defendant at its last known principal  
23 place of business, and shall keep a record of all process so served upon him. Such  
24 service of process is sufficient, ~~provided~~ if notice of such service and a copy of the  
25 process are sent within ten days thereafter by registered mail or by commercial  
26 courier, as defined in R.S. 13:3204(D), when the person to be served is located  
27 outside of this state by plaintiff's attorney to the defendant at its last known principal  
28 place of business, and the defendant's receipt, or receipt issued by the post office  
29 with which the letter is registered, showing the name of the sender of the letter and

1 the name and address of the person to whom the letter is addressed, and the affidavit  
 2 of the plaintiff's attorney showing a compliance ~~herewith~~ with this Section are filed  
 3 with the clerk of the court in which such action is pending on or before the date the  
 4 defendant is required to appear, or within such further time as the court may allow.  
 5 However, no plaintiff or complainant shall be entitled to a judgment by default, or  
 6 a judgment with leave to prove damages, or a judgment pro confesso under this  
 7 Section until the expiration of thirty days from date of the filing of the affidavit of  
 8 compliance.

9 C.(1) Service of process in any such action, suit, or proceeding shall, in  
 10 addition to the manner provided in Subsection B of this Section, be valid if served  
 11 as provided in Paragraph (2) of this Subsection upon any person within this state  
 12 who, in this state on behalf of such insurer, is: doing any of the following:

13 ~~(1)~~ (a) Soliciting insurance, ~~or,~~

14 ~~(2)~~ (b) Making any contract of insurance or issuing or delivering any policies  
 15 or written contracts of insurance, ~~or,~~

16 ~~(3)~~ (c) Collecting or receiving any premium for insurance, ~~and a,~~

17 (d) Acting as an agent for the sole purpose of operating a workers'  
 18 compensation claims office established pursuant to R.S. 23:1161.1.

19 (2) A copy of such process ~~is~~ shall be sent within ten days thereafter by  
 20 registered mail by the plaintiff's attorney to the defendant at the last known principal  
 21 place of business of the defendant, and the defendant's receipt, or the receipt issued  
 22 by the post office with which the letter is registered, showing the name of the sender  
 23 of the letter and the name and address of the person to whom the letter is addressed,  
 24 and the affidavit of the plaintiff's attorney showing a compliance ~~herewith~~ are with  
 25 this Section shall be filed with the clerk of the court in which such action is pending  
 26 on or before the date the defendant is required to appear, or within such further time  
 27 as the court may allow.

28 ~~(4) Acting as an agent for the sole purpose of operating a worker's~~  
 29 ~~compensation claims office established pursuant to R.S. 23:1161.1.~~

1 D. Nothing in this Section ~~contained~~ shall limit or abridge the right to serve  
2 any process, notice, or demand upon any insurer in any other manner ~~now or~~  
3 ~~hereafter~~ permitted by law.

4 \* \* \*

5 §1909. Requirements to be met before using courts

6 \* \* \*

7 B. The court in any action, suit, or proceeding in which service is made in  
8 the manner provided in ~~Sub-sections~~ Subsection B or C of R.S. 22:1907 may order  
9 such postponement as may be necessary to afford the defendant reasonable  
10 opportunity to comply with the provisions of ~~Sub-section~~ Subsection A of this  
11 Section and to defend such action.

12 C. Nothing in ~~Sub-section~~ Subsection A of this Section is to be construed to  
13 prevent an unauthorized insurer from filing a motion to quash a writ or to set aside  
14 service thereof made in the manner provided in ~~Sub-sections~~ Subsection B or C of  
15 R.S. 22:1907 on the ground: ~~either~~ (1) that no policy or contract of insurance has  
16 been issued or delivered to a citizen or resident of this state or to a corporation  
17 authorized to do business therein; ~~or~~ (2) that such insurer has not been transacting  
18 business in this state; ~~or~~ (3) that the person on whom service was made pursuant to  
19 ~~Sub-section~~ Subsection C of R.S. 22:1907 was not doing any of the acts therein  
20 enumerated.

21 \* \* \*

22 §1921. Purpose and powers

23 \* \* \*

24 B. In the event the applicant is a corporation, partnership, or other legal  
25 entity, the criminal searches shall be limited to those individuals who are directors,  
26 officers, employees, or individuals who own or control at least ten percent of the  
27 entity. If the section has reason to believe, whether acting on its own initiative or as  
28 a result of complaints, that a person has engaged in, or is engaging in, an act or  
29 practice that violates this Part or any other provision of ~~the Insurance~~ this Code, it

1 may examine and investigate into the affairs of such person and may administer  
2 oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and  
3 collect evidence.

4 C. If during the course of investigation, the Department of Insurance  
5 determines that there may be a violation of any criminal law, the investigation shall  
6 then be turned over to the Louisiana Department of Justice, the Department of Public  
7 Safety and Corrections, public safety services, office of state police, and other  
8 appropriate law enforcement ~~and/or~~ or prosecutorial agency, for further  
9 investigation, enforcement, or prosecution.

10 \* \* \*

11 §1923. Definitions

12 As used in this Part, the following terms shall have the meanings indicated  
13 in this Section:

14 (1) "Fraudulent insurance act" shall include but not be limited to acts or  
15 omissions committed by any person who, knowingly and with intent to defraud:

16 (a) Presents, causes to be presented, or prepares with knowledge or belief  
17 that it will be presented to or by an insurer, reinsurer, purported insurer or reinsurer,  
18 ~~broker, producer,~~ or any agent thereof, any oral or written statement which he knows  
19 to contain materially false information as part of, or in support of, or denial of, or  
20 concerning any fact material to or conceals any information concerning any fact  
21 material to the following:

22 \* \* \*

23 (g) Solicits or accepts new or renewal insurance risks by or for an  
24 unauthorized insurer, except as provided by Subpart O of Part I of Chapter 2 of this  
25 Title, R.S. 22:431 et seq., and Part III of this Chapter, ~~7 both of this Title. R.S.~~  
26 22:1941 et seq.

27 \* \* \*

1 §1926. Duties of companies and others

2 A. Any person, company, or other legal entity, including but not limited to  
3 those engaged in the business of insurance, including ~~agents, brokers, producers~~ and  
4 adjusters, which believes that a fraudulent claim is being made, shall within sixty  
5 days of the receipt of such notice, send to the section of insurance fraud, on a form  
6 prescribed by the section, the information requested and such additional information  
7 relative to the claim and the parties claiming loss or damages because of an  
8 occurrence or accident as the section may require. The section of insurance fraud  
9 shall review such reports and select such claims as, in its judgment, may require  
10 further investigation. It shall then cause an independent examination of the facts  
11 surrounding such claim to be made to determine the extent, if any, to which fraud,  
12 deceit, or intentional misrepresentation of any kind exists in the submission of the  
13 claim.

14 \* \* \*

15 §1927. Materials and evidence

16 \* \* \*

17 B. The section's papers, documents, reports, or evidence relative to the  
18 subject of an investigation under this Part shall not be subject to public inspection  
19 for so long as the section deems reasonably necessary to complete the investigation,  
20 to protect the person investigated from unwarranted injury, or to be in the public-  
21 domain. Further, such papers, documents, reports, or evidence relative to the subject  
22 of investigation under this Section shall not be subject to subpoena until opened for  
23 public inspection by the section, unless the section consents, or until after notice to  
24 the section and a hearing, a court of competent jurisdiction determines the section  
25 would not be necessarily hindered by such subpoena. Section investigators shall not  
26 be subject to subpoena in civil actions by any court of this state to testify concerning  
27 any matter of which they have knowledge pursuant to a pending insurance fraud  
28 investigation by the section.

1 §1928. Civil immunity

2 \* \* \*

3 B. This Section does not abrogate or modify in any way any statutory or  
4 other privilege or immunity ~~heretofore~~ enjoyed by such person or entity.

5 \* \* \*

6 §1941. Purpose of Part

7 The purpose of this Part is to subject certain insurers to the jurisdiction of the  
8 commissioner of this state and to the jurisdiction of the courts of this state in  
9 connection with fraudulent or false advertising of insurers not authorized to transact  
10 business in this state who circulate false or fraudulent advertising therein. In  
11 furtherance of such state interest, the legislature ~~herein~~ provides in this Part a method  
12 of substituted service of process upon such insurers and declares that in so doing, it  
13 exercises its power to protect its residents and to define, for the purpose of this  
14 statute, what constitutes doing business in this state, and also exercises powers and  
15 privileges available to the state by virtue of Public Law 15, 79th Congress of the  
16 United States, Chapter 20, 1st Session, S. 340, which declares that the business of  
17 insurance and every person engaged therein shall be subject to the laws of the several  
18 states, the authority provided ~~herein~~ in this Part to be in addition to any existing  
19 powers of this state.

20 §1942. Definitions

21 When used in this Part:

22 (a) "Commissioner" shall mean the commissioner of insurance of this state.

23 (b) "Unfair Trade Practice Law" shall mean the ~~Law~~ law relating to unfair  
24 methods of competition and unfair and deceptive acts and practices in the business  
25 of insurance, as set out in Part IV of this Chapter, ~~7 of this Title~~. R.S. 22:1961.

26 (c) "Residents" shall mean and include ~~person, partnership or corporation~~  
27 persons, partnerships, or corporations, domestic, alien, or foreign.

28 \* \* \*

1 §1944. Action by commissioner

2 If, after thirty days following the giving of the notice mentioned in R.S.  
3 22:1943, such insurer has failed to cease making, issuing, or circulating such ~~false~~  
4 misrepresentations or causing the same to be made, issued, or circulated in this state,  
5 and if the commissioner has reason to believe that a proceeding by him in respect to  
6 such matters would be to the interest of the public, and that such insurer is issuing  
7 or delivering contracts of insurance to residents of this state or collecting premiums  
8 on such contracts or doing any of the acts enumerated in R.S. 22:1945, he shall take  
9 action against such insurer under the Unfair Trade Practice Law.

10 §1945. Service upon unauthorized insurer

11 A.(1) Any of the following acts in this state, effected by mail or otherwise,  
12 by any such unauthorized foreign or alien insurer is equivalent to and shall constitute  
13 an appointment by such insurer of the secretary of state and his successor or  
14 successors in office, to be its true and lawful attorney:

15 ~~(1) the~~ (a) The issuance or delivery of contracts or insurance to residents of  
16 this state;

17 ~~(2) the~~ (b) The solicitation of applications for such contracts;

18 ~~(3) the~~ (c) The collection of premiums, membership fees, assessments, or  
19 other considerations for such contracts; ~~or,~~

20 ~~(4) any~~ (d) Any other transaction of insurance business; ~~is equivalent to and~~  
21 ~~shall constitute an appointment by such insurer of the secretary of state and his~~  
22 ~~successor or successors in office, to be its true and lawful attorney, upon whom~~

23 (2) The secretary of state may be served all statements of charges, notices,  
24 and lawful process in any proceeding instituted in respect to the misrepresentations  
25 set forth in R.S. 22:1943 under the provisions of the Unfair Trade Practice Law, or  
26 in any action, suit, or proceeding for the recovery of any penalty therein provided,  
27 and any such act shall be signification of its agreement that such service of statement  
28 of charges, notices, or process is of the same legal force and validity as personal

1 service of such statement of charges, notices, or process in this state, upon such  
2 insurer.

3 B. Service of a statement of charges and notices under ~~said the~~ the Unfair Trade  
4 Practice Law shall be made by any deputy or employee of the commissioner of  
5 insurance delivering to and leaving with the secretary of state or some person in  
6 apparent charge of his office, two copies thereof. Service of process issued by any  
7 court in any action, suit, or proceeding to collect any penalty under ~~said Law~~ such  
8 law provided, shall be made by delivering and leaving with the secretary of state or  
9 some person in apparent charge of his office, two copies thereof. The secretary of  
10 state shall ~~forthwith~~ cause to be mailed by registered mail one of the copies of such  
11 statement of charges, notices, or process to the defendant at its last known principal  
12 place of business, and shall keep a record of all statements of charges, notices, and  
13 process so served. Such service of statement of charges, notices, or process shall be  
14 sufficient ~~provided if~~ if they shall have been so mailed and the defendant's receipt or  
15 receipt issued by the post office with which the letter is registered, showing the name  
16 of the sender of the letter and the name and address of the person to whom the letter  
17 is addressed, and the affidavit of the person mailing such letter showing a  
18 compliance ~~herewith~~ with this Section are filed with the commissioner of insurance  
19 in the case of any statement of charges or notices, or with the clerk of the court in  
20 which such action is pending in the case of any process, on or before the date the  
21 defendant is required to appear or within such further time as may be allowed.

22 C.(1) Service of statement of charges, notices, and process in any such  
23 proceeding, action, or suit shall in addition to the manner provided in Subsection B  
24 of this Section be valid if served as provided in Paragraph (2) of this Subsection  
25 upon any person within this state who on behalf of such insurer is doing any of the  
26 following:

27 (1) ~~(a)~~ (a) Soliciting insurance, ~~or,~~

28 (2) ~~(b)~~ (b) Making, issuing, or delivering any contract of insurance, ~~or,~~

1           ~~(3)~~ (c) Collecting or receiving in this state any premium for insurance; ~~and~~

2           a

3           (2) A copy of such statement of charges, notices, or process ~~is~~ shall be sent  
4 within ten days thereafter by registered mail by or on behalf of the commissioner to  
5 the defendant at the last known principal place of business of the defendant, and the  
6 defendant's receipt, or the receipt issued by the post office with which the letter is  
7 registered, showing the name of the sender of the letter, the name and address of the  
8 person to whom the letter is addressed, and the affidavit of the person mailing the  
9 same showing a compliance ~~herewith, are~~ with this Section shall be filed with the  
10 commissioner in the case of any statement of charges or notices, or with the clerk of  
11 the court in which such action is pending in the case of any process, on or before the  
12 date the defendant is required to appear or within such further time as the court may  
13 allow.

14           D. No cease or desist order or judgment by default or a judgment pro  
15 confesso under this Section shall be entered until the expiration of thirty days from  
16 the date of the filing of the affidavit of compliance.

17           E. Service of process and notice under the provisions of this Part shall be in  
18 addition to all other methods of service provided by law, and nothing in this Part  
19 shall limit or prohibit the right to serve any statement of charges, notices, or process  
20 upon any insurer in any other manner ~~now or hereafter~~ permitted by law.

21           §1946. Advertisement by insurers

22           A. No person shall publish or print in any newspaper, magazine, periodical,  
23 circular letter, pamphlet, or in any other manner or publish by radio broadcasting in  
24 this state, any advertisement or other notice either directly or indirectly setting forth  
25 the advantages of or soliciting business for any insurer which has not been  
26 authorized to do business in Louisiana.

27           B. No person shall accept for publication or printing in any newspaper,  
28 magazine, or other periodical, or circular letter or pamphlet, or in any other manner,  
29 or for radio broadcasting in this state, any advertisement or other notice either

1 directly or indirectly setting forth the advantages of or soliciting business for any  
2 insurer unless the advertisement or notice is accompanied by a certificate from the  
3 office of the commissioner of insurance to the effect that the insurer is authorized to  
4 do business in Louisiana.

5 C. Whoever violates this Section shall be fined not more than one thousand  
6 dollars or imprisoned for not more than one year, or both.

7 \* \* \*

8 §1962. Definitions

9 When used in this Part:

10 \* \* \*

11 C. "Insurer" means any person, reciprocal exchange, interinsurer, Lloyds  
12 insurer, fraternal benefit society, industrial and burial insurer, or any insurer that  
13 markets under the Home Service Marketing distribution method and issues a  
14 majority of its policies on a weekly or monthly basis, or any other legal entity  
15 engaged in the business of insurance, including insurance ~~agents, insurance brokers,~~  
16 ~~surplus lines brokers, and insurance solicitors.~~ producers. Insurer shall also mean  
17 medical service plans, hospital service plans, health maintenance organizations, and  
18 prepaid limited health care service plans. For the purposes of this Part, these  
19 foregoing entities shall be deemed to be engaged in the business of insurance.

20 \* \* \*

21 F. "Producer" means a person required to be licensed under the laws of this  
22 state to sell, solicit, or negotiate insurance, and includes all persons or business  
23 entities otherwise referred to in ~~the Louisiana Insurance code~~ this Code as "insurance  
24 agent", "agent", "insurance broker", "broker", "insurance solicitor", "solicitor", or  
25 "surplus lines broker".

26 \* \* \*

27 §1964. Methods, acts, and practices which are defined ~~herein~~ as unfair or deceptive

28 The following are declared to be unfair methods of competition and unfair  
29 or deceptive acts or practices in the business of insurance:





1 products, including equities, mutual funds, shares of investment companies, variable  
2 annuities, and including face amount certificates of regulated investment companies  
3 under offerings registered with the Federal Securities and Exchange Commission.

4 \* \* \*

5 (13) Fraudulent insurance act. A fraudulent insurance act is one committed  
6 by a person who knowingly and with intent to defraud presents, causes to be  
7 presented, or prepares with knowledge or belief that it will be presented to or by an  
8 insurer, purported insurer, ~~broker~~, producer, or any agent thereof, any written  
9 statement as part of, or in support of, or in opposition to an application for the  
10 issuance of, or the rating of an insurance policy for commercial insurance, or a claim  
11 for payment or other benefit pursuant to an insurance policy for commercial or  
12 personal insurance which he knows to contain materially false information  
13 concerning any fact material thereto; or conceal for the purpose of misleading  
14 information concerning any fact material thereto.

15 \* \* \*

16 (15)

17 \* \* \*

18 (c) As used in this Paragraph, the following terms shall be given these  
19 meanings:

20 (i) "Drug" and "prescription" have the meanings assigned by R.S. 37:~~1171~~  
21 1164 and regulations of the Louisiana Board of Pharmacy.

22 \* \* \*

23 (iii) "Interferes" or "interferes with" means and includes but is not limited  
24 to the charging to or imposing on an insured or other beneficiary who does not utilize  
25 a specified or designated pharmacy or pharmacist, a copayment fee or other  
26 condition not equally charged to or imposed on all insureds or other beneficiaries in  
27 or under the same program or policy or plan. However, "interferes" or "interferes  
28 with" does not mean or include the advertisement, or periodic dissemination, to all  
29 insureds or other beneficiaries of current lists of all pharmacies or pharmacists who

1 have agreed to participate as a contract provider pursuant to the requirements of ~~R.S.~~  
2 ~~22:1964(15)~~ Item (a)(ii): of this Paragraph.

3 \* \* \*

4 (vii) "Pharmacy" has the meaning assigned by R.S. ~~37:1171~~ 1164 and  
5 regulations of the Louisiana Board of Pharmacy.

6 \* \* \*

7 (19) Unfair financial planning practices. An insurance producer:

8 \* \* \*

9 (b)(i) Engaging in the business of financial planning without disclosing to  
10 the client prior to the execution of the agreement provided for in Subparagraph (c)  
11 of this Paragraph or solicitation of the sale of a product or service that:

12 \* \* \*

13 (c)(i) Charging fees other than commissions for financial planning by  
14 insurance producer, unless such fees are based upon a written agreement, signed by  
15 the party to be charged in advance of the performance of the services under the  
16 agreement. A copy of the agreement shall be provided to the party to be charged at  
17 the time the agreement is signed by the party: and shall specifically state:

18 (aa) The services for which the fee is to be charged, ~~shall be specifically~~  
19 ~~stated in the agreement.~~

20 (bb) The amount of the fee to be charged or how it will be determined or  
21 calculated, ~~shall be specifically stated in the agreement.~~

22 (cc) ~~The agreement shall state that~~ That the client is under no obligation to  
23 purchase any insurance product through the insurance ~~agent, broker, producer~~ or  
24 consultant.

25 \* \* \*

26 (20) Failure to provide claims history.

27 (a) Loss information - property and casualty. Failure of a company issuing  
28 property and casualty insurance to provide the following loss information for the

1 three previous policy years to the first named insured within thirty days of receipt of  
2 the first named insured's written request:

3 (i) On all claims, date, and description of occurrence, and total amount of  
4 payments.

5 (ii) For any occurrence not included in Item (i) of this ~~Paragraph,~~  
6 Subparagraph, the date and description of occurrence.

7 (b) Should the first named insured be requested by a prospective insurer to  
8 provide detailed loss information in addition to that required under Subparagraph (a);  
9 of this Paragraph, the first named insured may mail or deliver a written request to the  
10 insurer for the additional information. No prospective insurer shall request more  
11 detailed loss information than reasonably required to underwrite the same line or  
12 class of insurance. The insurer shall provide information under this Subparagraph  
13 to the first named insured as soon as possible, but in no event later than twenty days  
14 of receipt of the written request. Notwithstanding any other provision of this  
15 Section, no insurer shall be required to provide loss reserve information, and no  
16 prospective insurer may refuse to insure an applicant solely because the prospective  
17 insurer is unable to obtain loss reserve information.

18 (c) The commissioner may promulgate regulations to exclude the providing  
19 of the loss information as outlined in Subparagraph (a) of this Paragraph for any line  
20 or class of insurance where it can be shown that the information is not needed for  
21 that line or class of insurance or where the provision of loss information otherwise  
22 is required by law.

23 (d) Information provided under Subparagraph (b) of this Paragraph shall not  
24 be subject to discovery by any party other than the insured, the insurer, and the  
25 prospective insurer.

26 \* \* \*

27 (24) Requiring ~~an agent or broker~~ a producer or offering any incentive for  
28 ~~agents or brokers~~ producers who represent more than one company to limit  
29 information provided to consumers on limited benefit plans. Failure to comply with

1 the provisions of this Paragraph shall subject the insurer to a penalty, of not less than  
2 two thousand five hundred dollars nor more than five thousand dollars, payable to  
3 the ~~agent or broker~~ producer and shall not be subject to the penalties provided for in  
4 R.S. 22:1969.

5 (25) Requiring ~~an agent or broker~~ a producer or offering any incentive for  
6 ~~agents or brokers,~~ producers, who represent more than one insurance company, to  
7 limit the number of other insurance companies they may represent. This prohibition  
8 shall not apply to captive insurance ~~agents or brokers,~~ producers. Failure to comply  
9 with the provisions of this Paragraph shall subject the insurer to a penalty up to ten  
10 thousand dollars and shall not be subject to the penalties provided for in R.S.  
11 22:1969.

12 \* \* \*

13 §1967. Power of commissioner of insurance

14 The commissioner of insurance shall have power to examine and investigate  
15 ~~into~~ the affairs of every person engaged in the business of insurance, including  
16 violations of R.S. 22:1902 et seq., in order to determine whether such person has  
17 been or is engaged in any unfair method of competition or in any unfair or deceptive  
18 act or practice prohibited by this Part.

19 §1968. Notice of hearing

20 Whenever the commissioner shall have reason to believe that any person has  
21 been engaged or is engaging in this state in any unfair trade practice as defined in  
22 ~~Title 22 of the Louisiana Revised Statutes,~~ this Code, whether or not defined in this  
23 Part, the commissioner shall issue a notice of wrongful conduct to said person in  
24 accordance and compliance with R.S. 49:961 describing the unfair trade practice and  
25 citing the law which is deemed by the commissioner to be violated.

26 \* \* \*

27 §1971. Grant of civil immunity

28 \* \* \*

1 C. Nothing ~~herein~~ in this Section is intended to abrogate or modify in any  
2 way or form any statutory privilege or immunity ~~heretofore~~ enjoyed by any person.

3 \* \* \*

4 §1973. Good faith duty; claims settlement practices; cause of action; penalties

5 \* \* \*

6 B. Any one of the following acts, if knowingly committed or performed by  
7 an insurer, constitutes a breach of the insurer's duties imposed in Subsection A: ~~of~~  
8 this Section:

9 \* \* \*

10 §1981. Commissioner of insurance to examine insurers, ~~agents, and brokers~~ and  
11 producers

12 A.

13 \* \* \*

14 (2) The commissioner may make an examination of any ~~agent or broker~~  
15 producer doing business in this state whenever he has received at least three  
16 complaints within a thirty-day period that the ~~agent or broker~~ producer is not acting  
17 in conformance with this Code.

18 (3) For purposes of completing an examination of any company under this  
19 Chapter, and in addition to any other power granted to the commissioner by ~~the~~  
20 ~~Louisiana Insurance~~ this Code, the commissioner may examine or investigate any  
21 person, as defined in R.S. 22:692(7), or the business of any person, in so far as such  
22 examination or investigation is, in the sole discretion of the commissioner, necessary  
23 or material to the examination of the company.

24 \* \* \*

25 C. In lieu of an examination under this Section of any foreign or alien insurer  
26 licensed in this state, the commissioner may accept an examination report on the  
27 company as prepared by the insurance department for the company's state of

1 domicile or port-of-entry state, ~~until January 1, 1994. Thereafter, such~~, Such reports  
2 may only be accepted if:

3 \* \* \*

4 §1983. Examination reports

5 \* \* \*

6 D. Within thirty days of rejection by the commissioner of an examination  
7 report in accordance with ~~Subsection C~~ Paragraph (C)(2) of this Section, unless the  
8 commissioner extends such time for reasonable cause, the examiner in charge shall  
9 refile with the Department of Insurance a verified written report of examination, as  
10 may be modified or corrected, under oath. Upon receipt of the refiled verified report,  
11 the Department of Insurance shall transmit the refiled report to the company  
12 examined, together with a notice similar to the notice provided for in Subsection B  
13 of this Section, except that the notice shall indicate that the report is a refiled report.

14 E. Within thirty days of the end of the period allowed for the receipt of  
15 written submissions or rebuttals, as provided for in Subsections B and D of this  
16 Section, the commissioner shall fully consider and review the refiled report, together  
17 with any written submissions or rebuttals and any relevant portions of the  
18 workpapers of the examiner and enter an order: either:

19 (1) Adopting the examination report as refiled or with modification or  
20 corrections. If the refiled examination report reveals that the company is operating  
21 in violation of any law, rule, regulation, or prior order or directive of the  
22 commissioner, the commissioner may order the company to take any action the  
23 commissioner considers necessary and appropriate to cure such violations; ~~or~~

24 (2) Rejecting the examination report and ordering a hearing pursuant to the  
25 provisions of Chapter 12 of this Title, ~~22 of the Louisiana Revised Statutes of 1950~~,  
26 for purposes of obtaining additional documentation, data, information, and  
27 testimony.

28 F. All orders entered pursuant to ~~Subsection C~~ Paragraph (C)(1) or ~~E~~(E)(1)  
29 of this Section shall be accompanied by findings and conclusions resulting from

1 consideration by the commissioner and review of the examination report, relevant  
2 examiner workpapers, and any written submissions or rebuttals. Any order shall be  
3 served upon the company by certified mail, together with a copy of the adopted  
4 examination report. Within thirty days of the issuance of the adopted report, the  
5 company shall file affidavits executed by each of its directors stating, under oath,  
6 that ~~they have~~ he has received a copy of the adopted report and related orders.

7 G. Within thirty days of receipt of notification of the order of the  
8 commissioner to the company made pursuant to Subsection F of this Section, the  
9 company may make written demand for a hearing pursuant to the provisions of  
10 Chapter 12 of this Title, ~~22 of the Louisiana Revised Statutes of 1950~~.

11 H. The hearing provided for under ~~Subsection E Paragraph (E)(2) or G (G)~~  
12 of this Section shall be a confidential proceeding. At the conclusion of the hearing,  
13 ~~and in accordance with R.S. 22:2199~~, the commissioner shall enter an order adopting  
14 the examination report as filed or refiled, or with modification or corrections, and  
15 may order the company to take any action the commissioner considers necessary and  
16 appropriate to cure any violation of any law, regulation, or prior order of the  
17 commissioner.

18 I.(1) Upon the adoption of the examination report under either ~~Subsection~~  
19 ~~E Paragraph (C)(1), E or (E)(1)~~, or Subsection H of this Section, the commissioner  
20 shall continue to hold the content of the examination report as private and  
21 confidential information for a period not to exceed thirty consecutive days, except  
22 to the extent provided in R.S. 22:1981(E) and Subsection B of this Section.  
23 Thereafter, the commissioner may open the report for public inspection so long as  
24 no court of competent jurisdiction has stayed its publication.

25 (2) Nothing contained in ~~the Louisiana Insurance~~ this Code shall prevent, or  
26 be construed as prohibiting, the commissioner from disclosing the content of an  
27 examination report, preliminary examination report or results, or any matter relating  
28 thereto, to the insurance department of this or any other state or country, or to law  
29 enforcement officials of this or any other state or agency of the federal government

1 at any time, so long as such agency or office receiving the report or matters relating  
2 thereto agrees, in writing, to hold it confidential and in a manner consistent with this  
3 Chapter.

4 \* \* \*

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

7 A. In addition to those examinations performed by the commissioner of  
8 insurance pursuant to R.S. 22:1981, the commissioner of insurance shall conduct  
9 financial and market analysis review of all insurers authorized to do business in this  
10 state and may conduct regulatory reviews of entities regulated by this Title 22 ~~of the~~  
11 ~~Louisiana Revised Statutes of 1950~~, or the Department of Insurance except for trusts  
12 established and operated under R.S. 22:46(9)(b), (c), or (d). Such reviews may  
13 include the annual statement and the market conduct annual statement of the insurer  
14 or regulated entity reviewed, company financial reports rendered pursuant to good  
15 and acceptable accounting practices, results of insurance solvency standards testing  
16 as performed by the National Association of Insurance Commissioners, results of  
17 prior examinations and office reviews, management changes, consumer complaints,  
18 and such other relevant information as from time to time may be required by the  
19 commissioner.

20 \* \* \*

21 G. Any insurer or regulated entity against whom a fine has been levied shall  
22 be given thirty days notice of such action. Upon receipt of this notice, the aggrieved  
23 insurer or regulated entity may apply for and shall be entitled to a hearing pursuant  
24 to R.S. 22:2191; et seq.

25 \* \* \*

26 §1988. Failure to pay expenses; penalty

27 Should any insurer fail or refuse to pay the expenses of examination as billed  
28 by the commissioner of insurance after fifteen days upon receipt of such billing or  
29 after final judgment where a rule has been taken as provided ~~herein~~, in R.S. 22:1987,

1 then the commissioner of insurance may revoke the certificate of authority of such  
2 insurer to do business in this state until the full amount of the bill is paid.

3 §1989. Scope of examination

4 In conducting such an examination, the commissioner of insurance shall  
5 examine the affairs, transactions, accounts, records, documents, and assets of each  
6 authorized insurer. Except in the case of a life insurer issuing only registered  
7 policies under R.S. 22:809 for the purpose of ascertaining its condition or  
8 compliance with this Code, the commissioner of insurance may as often as he deems  
9 advisable, examine the accounts, records, documents, and transactions of the  
10 following:

11 (1) ~~any~~ Any insurance ~~agent, solicitor or broker,~~ producer, but only insofar as  
12 such accounts, records, documents, and transactions relate to insurance;

13 (2) ~~any~~ Any person having a contract under which he enjoys in fact the  
14 exclusive or dominant right to manage or control a stock or mutual insurer;

15 (3) ~~any~~ Any person holding the shares of capital stock or policyholders'  
16 proxies of a domestic insurer for the purpose of control of its management either as  
17 voting trustee or otherwise;

18 (4) ~~any~~ Any person engaged in or proposing to be engaged in or assisting in  
19 the proposed formation of a domestic insurer or an insurance holding corporation or  
20 a stock corporation to finance a domestic mutual insurer for the production of its  
21 business or the attorney-in-fact of a domestic reciprocal insurer.

22 \* \* \*

23 §1992. Rating organizations, examining license bureau, advisory organization, joint  
24 underwriters and joint reinsurance groups; examination of

25 As often as in the opinion of the commissioner of insurance it is believed  
26 necessary and at least once in every five years, the commissioner of insurance shall  
27 fully examine each rating organization and examining bureau licensed in this state.  
28 As often as he deems it advisable, he may examine each advisory organization and  
29 joint underwriting or joint reinsurance group, association, or organization. The

1 commissioner of insurance shall have the same power and authority in these  
2 examinations, and the examination shall be made in the same method as that  
3 provided ~~herein~~ in this Chapter for the examination of insurers.

4 \* \* \*

5 §1994. Disclosure

6 A. It shall be unlawful for any person who is an officer, employee, agent, or  
7 representative of an insurer; or any person, partnership, corporation, banking  
8 corporation, or any other legal entity which performs any service for an insurer, or  
9 prepares any report, audit, financial statement, or report for, or makes any  
10 representation on behalf of, for, or with regard to an insurer, in connection with any  
11 hearing, investigation, or examination authorized by this Code, to act with the  
12 specific intent to:

13 (1) Represent falsely, directly or indirectly, to the Department of Insurance  
14 or any ~~employee or administrator thereof~~ of its employees or administrators that an  
15 asset of such insurer is unencumbered, or to misrepresent any other material fact  
16 pertaining to the status of any asset or liability of an insurer.

17 (2) Materially misrepresent to the Department of Insurance, or any ~~employee~~  
18 ~~or administrator thereof,~~ of its employees or administrators the value of any asset or  
19 the amount of any liability of such insurer, or any associated affiliate, subsidiary, or  
20 holding company; ~~associated therewith; provided that however,~~ with regard to a  
21 material misrepresentation of the value of any asset or liability, any deviation from  
22 the actual value of such asset or liability which results from utilization of and  
23 compliance with generally accepted insurance accounting and reporting procedures  
24 shall not be deemed a violation of this Section.

25 (3) Fail to disclose to the Department of Insurance the existence of any  
26 liability of an associated insurer, or affiliate, subsidiary, or holding company  
27 ~~associated therewith~~ when such disclosure is properly requested or required in  
28 writing by an examiner or administrator of the Department of Insurance, ~~or.~~



1 §2003. Definitions

2 For the purposes of this Chapter:

3 (1) "Doing business" shall include any of the following, whether effected by  
4 mail or otherwise:

5 \* \* \*

6 (e) Operating as an insurer under a license or certificate of authority, ~~as an~~  
7 ~~insurer~~, issued by the Department of Insurance.

8 (f) Acting as ~~an agent, broker,~~ a producer or managing agent of an insurer,  
9 acting as a reinsurer, or the ownership of an insurer by a holding company, or the  
10 operation of a captive premium finance company, or related entity.

11 \* \* \*

12 §2005. Grounds for rehabilitation

13 ~~A. Whenever~~ The commissioner of insurance may apply by petition to the  
14 district court of the parish in which an insurer has its principal office, or to the district  
15 court of the parish of East Baton Rouge, or to any one of the judges thereof should the  
16 court be in vacation, at the commissioner of insurance's sole option, for a rule to show  
17 cause why an order to rehabilitate, conserve, liquidate, or dissolve such insurer as  
18 provided in this Chapter should not be entered, and for such other relief as the nature  
19 of the case and the interest of the insurer's policyholders, members, stockholders,  
20 creditors, or the public may require, whenever any domestic insurer: is in one of the  
21 following positions:

22 (1) Has obligations or claims exceeding its assets, cannot pay its contracts in  
23 full, or is otherwise found by the commissioner of insurance to be insolvent; ~~or,~~

24 (2) Has refused to submit its books, papers, accounts, records, or affairs to the  
25 reasonable inspection or examination of the commissioner of insurance, or his  
26 actuaries, supervisors, deputies, or examiners; ~~or,~~

27 (3) Has neglected or refused to observe an order of the commissioner of  
28 insurance to make good within the time prescribed by law any deficiency, whenever

1 its capital, if a stock insurer, or its required surplus, if an insurer other than stock,  
2 shall have become impaired;~~or.~~

3 (4) Has, by articles of consolidation, contract or reinsurance, or otherwise,  
4 transferred or attempted to transfer its entire property or business not in conformity  
5 with this Code, or entered into any transaction the effect of which is to merge  
6 substantially its entire property or business in any other insurer without having first  
7 obtained the written approval of the commissioner of insurance pursuant to the  
8 provisions of this Code;~~or.~~

9 (5) Is found to be in such condition that its further transaction of business  
10 would be hazardous to its policyholders, ~~or to its creditors, or to the public;~~~~or.~~

11 (6) Has an officer who has refused upon reasonable demand to be examined  
12 under oath touching its affairs;~~or.~~

13 (7) Is found to be in such condition that it could not meet the requirements for  
14 organization and authorization as required by law, except as to the amount of the  
15 surplus required of a stock insurer in R.S. 22:81, and except as to the amount of the  
16 surplus required by this Code to be maintained;~~or.~~

17 (8) Has ceased for the period of one year to transact insurance business;~~or.~~

18 (9) Has commenced, or has attempted to commence, any voluntary  
19 liquidation or dissolution proceedings, or any proceeding to procure the appointment  
20 of a receiver, liquidator, rehabilitator, sequestrator, or similar officer for itself;~~or.~~

21 (10) If a party, either plaintiff or defendant in any proceeding in which an  
22 application is made for the appointment of a receiver, custodian, liquidator,  
23 rehabilitator, sequestrator, or similar officer, for such insurer or its property, or a  
24 receiver, custodian, liquidator, rehabilitator, sequestrator, or similar officer, for such  
25 insurer or its property is appointed by any court, or such appointment is imminent ;  
26 ~~or.~~

27 (11) Consents to such an order by a majority of its directors, stockholders, or  
28 members;~~or.~~

1           (12) Has not organized and obtained a certificate authorizing it to commence  
2 the transaction of its business within the period of time prescribed by the sections of  
3 this Code under which it is or proposes to be organized;~~or.~~

4           (13) Gives reasonable cause to believe that there has been embezzlement from  
5 the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or  
6 fraud affecting the insurer, or other illegal conduct in, by, or with respect to the  
7 insurer that if established would endanger assets in an amount threatening the  
8 solvency of the insurer;~~or.~~

9           (14) Within the previous four years, the insurer has willfully violated its  
10 charter or articles of incorporation, its bylaws, any insurance law of this state, or any  
11 valid order of the commissioner, or failed to maintain adequate records in accordance  
12 with statutory accounting practices and generally accepted accounting principles;~~or.~~

13           (15) Has failed to file its annual report or other financial report required by  
14 R.S. 22:571 within the time allowed by law and, within ten days of receipt of written  
15 demand by the commissioner, has failed to provide the report;~~or.~~

16           (16) Has failed to pay a final judgment rendered against it in any state upon  
17 any insurance contract issued or assumed by it, within sixty days after the judgment  
18 became final or within sixty days after time for taking an appeal has expired, or within  
19 sixty days after dismissal of an appeal before final determination whichever date is  
20 the later;~~then.~~

21           ~~B. The commissioner of insurance may apply by petition to the district court~~  
22 ~~of the parish in which said insurer has its principal office, or to the district court of the~~  
23 ~~parish of East Baton Rouge, or to any one of the judges thereof should the court be~~  
24 ~~in vacation, at the commissioner of insurance's sole option, for a rule to show cause~~  
25 ~~why an order to rehabilitate, conserve, liquidate, or dissolve such insurer as provided~~  
26 ~~in this Chapter should not be entered, and for such other relief as the nature of the~~  
27 ~~case and the interest of the insurer's policyholders, members, stockholders, creditors,~~  
28 ~~or the public may require.~~

1 §2006. Injunction

2 The court shall have jurisdiction over matters brought by or against the  
3 Department of Insurance or the commissioner of insurance, at any time after the filing  
4 of the petition, to issue an injunction restraining such insurer and its officers, agents,  
5 directors, employees, and all other persons from transacting any insurance business  
6 or disposing of its property until the further order of the court. The court may issue  
7 such other injunctions or enter such other orders as may be deemed necessary to  
8 prevent interference with the proceedings, or with the commissioner of insurance's  
9 possession and control or title, rights, or interests as ~~herein~~ provided in this Chapter  
10 or to prevent interference with the conduct of the business by the commissioner of  
11 insurance, and may issue such other injunctions or enter such other orders as may be  
12 deemed necessary to prevent waste of assets or the obtaining of preferences,  
13 judgments, attachments, or other like liens or the making of any levy against such  
14 insurer or its property and assets while in the possession and control of the  
15 commissioner of insurance.

16 \* \* \*

17 §2008. Order of rehabilitation or liquidation

18 A. ~~On the return of such order to show cause and after~~ After a full hearing,  
19 which shall be held by the court without delay, the court shall enter an order either  
20 dismissing the petition or finding that sufficient cause exists for rehabilitation or  
21 liquidation and directing the commissioner of insurance to take possession of the  
22 property, business, and affairs of such insurer and to rehabilitate or liquidate the same  
23 as the case may be. The commissioner of insurance shall be responsible on his  
24 official bond for all assets coming into his possession. The commissioner of  
25 insurance and his successor and successors in office shall be vested by operation of  
26 law with the title to all property, contracts, and rights of action of the insurer as of the  
27 date of the order directing rehabilitation or liquidation.

28 \* \* \*

1 §2009. Duties of commissioner of insurance as rehabilitator; termination

2 \* \* \*

3 E. The rehabilitator, in addition to other powers, shall have the following  
4 powers:

5 \* \* \*

6 (2) To audit the books and records of all agents, including producers, of the  
7 insurer insofar as those records relate to the business activities of the insurer.

8 \* \* \*

9 (4) To enter into such agreements or contracts as ~~are~~ necessary to carry out  
10 the full or partial plan for rehabilitation or the order to liquidate and to affirm or  
11 disavow any contracts to which the insurer is a party.

12 \* \* \*

13 §2010. Duties of commissioner of insurance as liquidator; sales; notice to creditors;  
14 reinsurance

15 \* \* \*

16 D. In order to preserve so far as possible the right and interest of the  
17 policyholders of the insurer whose contracts were cancelled by the liquidation order  
18 and of such other creditors as may be possible, the commissioner of insurance may  
19 solicit a contract or contracts whereby a solvent insurer or insurers will agree to  
20 assume in whole, or in part, or upon a modified basis, the liabilities owing to ~~said~~  
21 such former policyholders or creditors. If, after a full hearing upon a petition filed by  
22 the commissioner of insurance, the court shall find that the commissioner of insurance  
23 endeavored to obtain the best contract for the benefit of ~~said~~ such parties in interest,  
24 and if the ~~said~~ commissioner of insurance shall report to the court that he is ready and  
25 willing to enter into a contract and submit a copy thereof to the court, the court shall  
26 examine the procedure and acts of the commissioner of insurance, and if the court  
27 shall find that the best possible contract in the interests of ~~said~~ such parties has been  
28 obtained and that it is best for the interests of parties that ~~said~~ such contract be entered

1 into, the court shall by written order approve the acts of the commissioner of  
2 insurance and authorize him to execute ~~said~~ such contract.

3 \* \* \*

4 §2012. Unearned premium; limitation of claims by insolvent insurers

5 A. Any claim of an insolvent insurer against an insured or against the ~~agent~~  
6 producer through whom a policy was written concerning any policy of insurance  
7 issued or delivered in this state shall be subject to the following limitations:

8 \* \* \*

9 (3) The ~~agent, producer,~~ through whom the policy was written, shall not be  
10 liable to the insolvent insurer for any premiums which had not been earned on a pro  
11 rata basis on the date the insurer was declared insolvent. The ~~agent~~ producer is  
12 entitled to retain the commission due on earned premiums. The insured is entitled to  
13 any unearned premium which the ~~agent~~ producer has collected but has not remitted  
14 to the insurer.

15 B. In this Section, the term "insolvent insurer" includes any insurer who has  
16 been declared to be insolvent under the laws of any state, ~~and its liquidator,~~  
17 ~~rehabilitator, receiver, statutory successor, or other legal representative.~~

18 §2013. Rights and liabilities of creditors fixed upon liquidation

19 \* \* \*

20 B. All executory contracts of an insurer, other than contracts under which  
21 such insurer has an established benefit without any additional expenditure, shall be  
22 cancelled as of the date of the entry of an order of liquidation unless the court  
23 provides otherwise in the liquidation order, ~~provided that~~ however, the commissioner  
24 may petition the court within sixty days of the entry of such order to reaffirm any such  
25 contract. Any contract that is reaffirmed shall remain in force in accordance with the  
26 court's order and any obligation of the insurer under such contract shall become an  
27 administrative expense of the liquidation unless otherwise ordered by the court.

28 \* \* \*

1 §2018. Appointment of assistants

2 A. For the purpose of this Chapter, and in connection with proceedings  
3 involving only domestic insurers, the commissioner of insurance shall have the power  
4 to appoint one or more special deputies as his agent or agents and to employ such  
5 clerks; or assistants ~~as may by him be deemed~~ he deems necessary, and to give each  
6 of such persons such powers to assist him as he may consider wise. The  
7 compensation of every such special deputy, agent, clerk, or assistant shall be fixed,  
8 and all expenses of taking possession of the property of the insurer and the  
9 administration thereof shall be approved, by the commissioner of insurance, all  
10 subject to the approval of the court, and shall be paid out of the funds or assets of the  
11 insurer.

12 B. The attorney general shall provide representation for the commissioner of  
13 insurance in all matters covered ~~under~~ pursuant to this Chapter. The attorney general  
14 may, ~~in cases in which~~ if he deems it appropriate, appoint special counsel to provide  
15 this representation. The attorney general shall submit his certification of expenses  
16 and legal fees, both for staff and outside counsel, to the court for approval. Upon  
17 approval by the court, these amounts shall be paid out of the funds or assets of the  
18 insurer.

19 \* \* \*

20 §2019. Exemption from filing fees

21 The commissioner of insurance shall not be required to pay any fee to any  
22 public officer for filing, recording, or in any manner authenticating any paper or  
23 instrument relating to any proceeding ~~under~~ pursuant to this Chapter, nor for services  
24 rendered by any public officer for serving any process; ~~but~~ however, such fees and  
25 costs may be taxed as costs against the defendant in the suit by order of the court and  
26 paid to such public officer.

1 §2020. Prohibited and voidable transfer and liens

2 \* \* \*

3 C. Every director, officer, employee, stockholder, member, or any other  
4 person, acting on behalf of such insurer, who, within two years prior to the filing of  
5 a petition for an order to show cause against such insurer ~~under~~ pursuant to this  
6 Chapter, shall knowingly participate in the making of any transfer or the creation of  
7 any lien prohibited by ~~Sub-section~~ Subsection A of this Section and every person  
8 receiving any property of, or cash surrender from, such insurer or the benefit thereof,  
9 as a result of a transaction voidable under ~~Sub-section~~ Subsection B; of this Section,  
10 shall be jointly and severally liable therefor and shall be bound to account to the  
11 commissioner of insurance as rehabilitator, liquidator, or conservator as the case may  
12 be.

13 \* \* \*

14 §2021. Fraudulent transfers prior to petition

15 A. Every transfer made or suffered and every obligation incurred by an  
16 insurer within one year prior to the filing of a successful petition for rehabilitation or  
17 liquidation ~~under~~ pursuant to this Chapter is fraudulent as to then existing and future  
18 creditors if made or incurred without fair consideration, or with actual intent to  
19 hinder, delay, or defraud either existing or future creditors. A transfer made or an  
20 obligation incurred by an insurer ordered to be rehabilitated or liquidated ~~under~~  
21 pursuant to this Chapter, which is fraudulent ~~under~~ pursuant to this Section, may be  
22 avoided by the receiver, except as to a person who in good faith is a purchaser, lienor,  
23 or obligee for a present fair equivalent value, and except that any purchaser, lienor,  
24 or obligee, who in good faith has given ~~consideration~~ less than fair consideration for  
25 such transfer, lien, or obligation, may retain the property, lien, or obligation as  
26 security for repayment. The court may, on due notice, order any such transfer or

1 obligation to be preserved for the benefit of the estate, and in that event, the receiver  
2 shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

3 \* \* \*

4 §2023. Voidable preferences and liens

5 \* \* \*

6 C.

7 \* \* \*

8 (2) A lien obtainable by legal proceedings could become superior to the rights  
9 of a transferee, or a purchaser could obtain rights superior to the rights of a transferee  
10 within the meaning of Subsection B of this Section, if such consequences would  
11 follow only from the lien or purchase itself, or from the lien or purchase followed by  
12 any step wholly within the control of the respective lienholder or purchaser, with or  
13 without the aid of ministerial action by public officials. Such a lien could not,  
14 however, become superior and such a purchase could not create superior rights for the  
15 purpose of Subsection B of this Section through any acts subsequent to the obtaining  
16 of such a lien or subsequent to such a purchase which require the agreement or  
17 concurrence of any third party or which require any further judicial action or ruling.

18 \* \* \*

19 §2025. Priority of claims

20 The priorities of distribution of general assets from the insurer's estate shall  
21 be as follows:

22 \* \* \*

23 (4) Compensation actually owing to employees other than officers of an  
24 insurer, for services rendered within three months prior to the commencement of a  
25 proceeding against the insurer ~~under~~ pursuant to this Chapter, but not exceeding two  
26 thousand five hundred dollars for such employee, shall be paid prior to the payment  
27 of any other debt or claim and in the discretion of the commissioner of insurance may  
28 be paid as soon as practicable after the proceeding has commenced; except, that ~~at all~~  
29 ~~times~~ the commissioner of insurance shall reserve such funds as will in his opinion

1 be sufficient for the payment of all claims in Paragraphs (1), (2), and (3): of this  
2 Section. This priority shall be in lieu of any other similar priority which may be  
3 authorized by law as to wages or compensation of such employees.

4 \* \* \*

5 §2026. Set-offs

6 A. In all cases of mutual debts or mutual credits between the insurer and  
7 another person, such credits and debts shall be set-off and the balance only shall be  
8 allowed or paid; ~~provided;~~ however, ~~that~~ no set-off shall be allowed in favor of any  
9 person ~~where:~~ when either of the following apply:

10 (1) The obligation of the insurer to such person was purchased by or  
11 transferred to such person with a view of its being used as a set-off; ~~or,~~

12 (2) The obligation of such person is to pay an assessment levied against the  
13 members or subscribers of any insurer which issued assessable policies, or to pay a  
14 balance upon a subscription to the shares of a stock insurer.

15 B. ~~Where an agent, agency~~ When a producer or other person purchases a  
16 policy of insurance for the unexpired term of the policy and takes an assignment of  
17 the unearned premium claim from the insured, this action shall not be considered as  
18 a purchase of an obligation with a view of its being used as a set-off.

19 §2027. Time to file claims

20 \* \* \*

21 B. Proofs of claim may be filed subsequent to the date specified, but, no such  
22 claim shall share in the distribution of the assets until all allowed claims, proofs of  
23 which have been filed before ~~said~~ such date, have been paid in full with interest.

24 §2028. Proof and allowance of claims

25 \* \* \*

26 B. Upon the liquidation of any domestic insurer which has issued policies  
27 insuring the lives of persons, the commissioner of insurance shall, within a reasonable  
28 time, after the last day set for the filing of claims, make a list of the persons who have  
29 not filed proofs of claim with him and whose rights have not been reinsured, to whom

1 it appears from the books of the insurer, there are owing amounts on such policies and  
 2 he shall set opposite the name of each person such amount so owing to such person.  
 3 The commissioner of insurance shall incur no personal liability by reason of any  
 4 mistake in such list. Each person whose name shall appear upon ~~said~~ such list shall  
 5 be deemed to have duly filed prior to the last day set for filing of claims a proof of  
 6 claim for the amount set opposite his name on ~~said~~ such list.

7 C. No contingent claim other than claims of the character described in ~~Sub-~~  
 8 ~~section~~ Subsection D of this Section shall share in a distribution of the assets of an  
 9 insurer which has been adjudicated to be insolvent by an order made pursuant to R.S.  
 10 22:2027 except that a contingent claim, if properly presented, may be allowed, and  
 11 entitled to share where such claim becomes absolute against the insurer on or before  
 12 the last day fixed for the filing of proofs of claim against the assets of such insurer,  
 13 or there is a surplus to be distributed as if no order pursuant to R.S. 22:2027 had been  
 14 made.

15 D.

16 \* \* \*

17 (6) When the receiver allows or disallows a claim in a lesser amount than  
 18 claimed, he shall notify the person making the claim by petition in the receivership  
 19 proceedings, allowing ten days after receipt of ~~said~~ such notice in which to file  
 20 objections to the action of the receiver. The objections shall be heard in the  
 21 receivership by summary proceedings.

22 \* \* \*

23 §2029. Report for assessment

24 Within three years from the date an order of rehabilitation or liquidation of a  
 25 domestic mutual insurer or a domestic reciprocal insurer was filed in the office of the  
 26 clerk of the court by which such order was made, the commissioner of insurance may  
 27 make a report to the court setting forth: each of the following:

- 28 (1) The reasonable value of the assets of the insurer; ~~;~~
- 29 (2) The insurer's probable liabilities; ~~and~~.

1 (3) The probable necessary assessments, if any, to pay all claims and  
2 expenses in full, including expenses of administration.

3 \* \* \*

4 §2032. Publication and transmittal of assessment order

5 The commissioner of insurance shall cause a notice of such assessment order  
6 setting forth a brief summary of the contents of such order to be both:

7 (1) Published in such manner as shall be directed by the court; ~~and~~.

8 (2) Enclosed in a sealed envelope, addressed and mailed postage prepaid to  
9 each member or subscriber liable thereunder at his last known address as it appears  
10 on the records of the insurer, at least twenty days before the return day of the order  
11 to show cause provided for in R.S. 22:2031.

12 §2033. Judgment upon the assessment

13 \* \* \*

14 B. If on such return day the member or subscriber shall appear and serve  
15 verified objections upon the commissioner of insurance, there shall be a full hearing  
16 before the court or a referee to hear and determine, who, after such hearing, shall  
17 make an order either ~~negating~~ negating the liability of the member or subscriber to  
18 pay the assessment or affirming his liability to pay the whole or some part thereof  
19 together with twenty-five dollars costs and the necessary disbursements incurred at  
20 such hearing, and directing that the commissioner of insurance in the latter case may  
21 have judgment therefor.

22 \* \* \*

23 §2034. Distribution of assets; priorities; unpaid dividends

24 \* \* \*

25 G. If subsequent to an adjudication of insolvency, pursuant to R.S. 22:2027,  
26 a surplus is found to exist after the payment in full of all allowed claims which have  
27 been duly filed prior to the last date fixed for the filing thereof and the setting aside  
28 of a reserve for all costs and expenses of the proceeding, the court shall set a new date  
29 for the filing of claims. After the expiration of ~~said~~ such new date, the solvency of

1 such insurer shall be reexamined and if such insurer is then found to be solvent on the  
2 basis of all claims then filed and allowed, any surplus existing shall be distributed in  
3 accordance with the direction of the court.

4 H. Dividends remaining unclaimed or unpaid in the hands of the  
5 commissioner of insurance for six months after the final order of distribution may be  
6 by him deposited in one or more state or national banks, trust companies, or savings  
7 banks to the credit of the commissioner of insurance, ~~whomsoever he may be~~, in trust  
8 for the person entitled thereto, but no such person shall be entitled to any interest upon  
9 such deposit. All such deposits shall be entitled to priority of payment in case of the  
10 insolvency or voluntary or involuntary liquidation of the depository on an equality  
11 with any other priority given by the banking law. Any such funds together with  
12 interest, if any, paid or credited thereon, remaining and unclaimed in the hands of the  
13 commissioner of insurance in trust after five years shall be by him paid to the state  
14 treasurer to be credited to the funds received from insurance revenues.

15 §2035. Grounds for conservation of assets of an authorized foreign or alien insurer  
16 or an unauthorized insurer writing business on a surplus line basis

17 A. Whenever the property of a foreign or alien insurer authorized to do  
18 business in Louisiana or an unauthorized insurer writing business in this state on a  
19 surplus line basis has been sequestrated in its domiciliary sovereignty or elsewhere,  
20 or whenever any of the grounds specified in R.S. 22:2005(A), except Paragraphs (8)  
21 and (16) of that Section, arise or exist with reference to any foreign or alien insurer  
22 authorized to transact business in this state or an unauthorized insurer writing  
23 business in this state on a surplus line basis and having assets in this state, the  
24 commissioner of insurance may proceed for the filing of a petition as provided in this  
25 Chapter against domestic insurers, for an order directing such authorized foreign or  
26 alien insurer or such unauthorized insurer to show cause why the commissioner of  
27 insurance should not take possession of its assets in this state and conserve such assets  
28 for the benefit of its creditors and for such other relief as the nature of the cause and

1 the interests of its policyholders, creditors, members, stockholders, or the public may  
2 require.

3 \* \* \*

4 D. The rights, powers, and duties of the commissioner of insurance as such  
5 conservator, with reference to the assets of a foreign or alien insurer shall be ancillary  
6 to the rights, powers, and duties imposed upon any receiver or other person, if any,  
7 in charge of the property, business and affairs of such insurer in its domiciliary  
8 sovereignty. When such domiciliary sovereignty is also a "reciprocal state" as  
9 defined in R.S. 22:2038, the commissioner of insurance, as ancillary receiver in this  
10 state, shall be subject to the provisions of the Uniform Insurers Liquidation Law (2  
11 R.S. 22:2038 through 2044), ~~herein~~.

12 §2036. Provisions for conservation of assets of domestic company

13 \* \* \*

14 C. Entry of a seizure order under this ~~section~~ Section shall not constitute an  
15 anticipatory breach of any contract of the company.

16 \* \* \*

17 §2038. Uniform Insurers Liquidation Law

18 This Section, and R.S. 22:2039 through 2044, comprise and may be cited as  
19 the "Uniform Insurers Liquidation Law". For the purposes of the law:

20 \* \* \*

21 (3) "State" means any state of the United States, and also the District of  
22 Columbia, ~~Alaska, Hawaii~~ and Puerto Rico.

23 \* \* \*

24 §2044. Uniformity of interpretation

25 This Uniform Insurers Liquidation Law, (2 R.S. 22:2038 through 2044), shall  
26 be so interpreted and construed as to effectuate its general purpose to make uniform  
27 the law of those states that enact it.

28 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §2055. Definitions

2 As used in this Part:

3 \* \* \*

4 (6) "Covered claim" means the following:

5 (a) An unpaid claim, including one for unearned premiums that arises out of  
6 and is within the coverage and not in excess of the applicable limits of an insurance  
7 policy to which this Part applies issued by an insurer, if such insurer becomes an  
8 insolvent insurer after September 1, 1970, and the policy was issued by such insurer  
9 and any of the following:

10 \* \* \*

11 (ii) The claimant is a self-insurer, including an arrangement or trust formed  
12 under ~~Subpart J of Part 1 of Chapter 10 of Title 23 of the Louisiana Revised Statutes~~  
13 ~~of 1950, R.S. 23:1191 et seq.~~, and is principally domiciled in this state at the time of  
14 the insured event.

15 \* \* \*

16 (7) "Insolvent insurer" means: an insurer who meets both of the following  
17 criteria:

18 (a) ~~An insurer that is~~ Is licensed and authorized to transact insurance in this  
19 state, either at the time the policy was issued or when the insured event occurred, ~~and,~~

20 \* \* \*

21 (9)(a) "Member insurer" means any person who: meets both of the following  
22 criteria:

23 (i) Is licensed and authorized to transact insurance in this state, ~~and,~~

24 \* \* \*

25 (b) An insurer shall cease to be a member insurer effective on the day  
26 following the termination or expiration of its license to transact the kinds of insurance  
27 to which this Part applies; however, the insurer shall remain liable as a member

1 insurer for any and all obligations, including obligations for assessments levied prior  
2 to the termination or expiration of the insurer's license.

3 \* \* \*

4 (12) "Insurance policy" means an insurance contract as defined in R.S.  
5 22:864, and shall not include an agreement ~~whereby~~ in which an insurer agrees to  
6 assume and carry out directly with the policyholder any of the policy obligations of  
7 another insurer, such as cut-through endorsements, reinsurance endorsements,  
8 facultative reinsurance agreements, treaty reinsurance agreements, and other such  
9 agreements, when either insurer is an affiliate of the other.

10 \* \* \*

11 (15) "Self-insurer" means a person that covers its liabilities through a  
12 qualified individual or group self-insurance program created for the specific purpose  
13 of covering liabilities typically covered by insurance. A group self-insurance fund  
14 formed under ~~Subpart J of Part 1 of Chapter 10 of Title 23 of the Revised Statutes of~~  
15 ~~1950~~ R.S. 23:1191 et seq. shall not be deemed to be an insurer with respect to this  
16 Chapter.

17 §2056. Creation of the association

18 \* \* \*

19 C.

20 \* \* \*

21 (2) The association may hold an executive session pursuant to R.S. 42:16 for  
22 discussion of one or more of the following, and R.S. 44:1 through 41 shall not apply  
23 to any documents as enumerated in R.S. 44:1(A)(2) which relate to one or more of the  
24 following:

25 \* \* \*

26 (f) Discussion by or documents in the custody or control of any committee  
27 or subcommittee of the association, or any member or agent thereof, or the board of  
28 directors or any member or agent thereof, ~~provided~~ if such discussion or documents

1 would otherwise be protected from disclosure by any of the exceptions provided in  
2 this Paragraph.

3 \* \* \*

4 §2058. Powers and duties of the association

5 A. The association shall:

6 (1)(a) Be obliged to pay covered claims pursuant to an order as provided in  
7 R.S. 22:2008(C), existing prior to the determination of the insurer's insolvency, or  
8 arising after such determination but prior to the first to occur of the following events:

9 (i) Expiration of thirty days after the date of such determination of  
10 insolvency;

11 (ii) Expiration of the policy;

12 \* \* \*

13 (b) Satisfy such obligation by paying to the claimant an amount as follows:

14 (i) The full amount of a covered claim for benefits payable directly to or on  
15 behalf of the injured employee or his health care providers, vocational rehabilitation  
16 counselors, and similar providers under a workers' compensation insurance coverage;

17 (ii) An amount not exceeding ten thousand dollars per policy for a covered  
18 claim for the return of unearned premium;

19 \* \* \*

20 (3)(a)

21 \* \* \*

22 (iv) ~~Beginning January 1, 1990, the~~ The amount of the assessment shall be  
23 offset in the same manner that an offset is provided against the premium tax liability  
24 in Item (3)(b)(ii) of this Subsection, against the assessment levied by R.S. 22:1476,  
25 ~~provided that~~ if such offset shall not be applied against any portion of the assessments  
26 to be deposited to the credit of the Municipal Police Employees' Retirement System,  
27 the Sheriffs' Pension and Relief Fund, and the Firefighters' Retirement System. To  
28 qualify for this offset, the payer shall file a sworn statement with the annual report  
29 required by ~~Parts I, III, and IV of Chapter 3 of this Title~~ R.S. 22:791 et seq., 821 et

1        seq., and 831 et seq., showing as of December thirty-first of the reporting period that  
2        at least the following amounts of the total admitted assets of the payer, less assets in  
3        an amount equal to the reserves on its policies issued in foreign countries in which it  
4        is authorized to do business and which countries require an investment therein as a  
5        condition of doing business, are invested and maintained in qualifying Louisiana  
6        investments as defined in R.S. 22:832(C). If one-sixth of the total admitted assets of  
7        the payer are in qualifying Louisiana investments, then the offset shall be sixty-six  
8        and two-thirds percent of the amount otherwise assessed; if at least one-fifth of the  
9        total admitted assets of the payer are in qualifying Louisiana investments, then the  
10       offset shall be seventy-five percent of the amount otherwise assessed; if at least one-  
11       fourth of the total admitted assets of the payer are in qualifying Louisiana  
12       investments, the offset shall be eighty-five percent of the amount otherwise assessed;  
13       and if at least one-third of the total admitted assets of the payer are in qualifying  
14       Louisiana investments, then the offset shall be ninety-five percent of the amount  
15       otherwise assessed. If the total of the net premium tax liability and the assessment for  
16       the expenses of the Department of Insurance paid for the previous year was less than  
17       the offset allowed under Item (3)(b)(ii) of this Subsection for the previous year, the  
18       member company may reduce its assessment payment to the Louisiana Insurance  
19       Guaranty Association for the current year by that difference.

\*       \*       \*

21       §2059. Plan of operation

22                A.(1) The association shall submit to the commissioner, ~~and~~ the Senate  
23       Committee on Insurance, ~~and~~ the House Committee on Insurance a plan of operation  
24       and any amendments thereto necessary or suitable to assure the fair, reasonable, and  
25       equitable administration of the association. The plan of operation and any  
26       amendments thereto shall become effective upon approval in writing by the  
27       commissioner; however, prior to the implementation of any new plan or any  
28       amendment to such new plan or an existing plan of operation, the Senate Committee  
29       on Insurance and the House Committee on Insurance may hold a hearing on such new

1 plan or any amendments to a new or existing plan of operation. After a hearing, if  
 2 any, the respective legislative committees shall either approve or reject the plan or  
 3 amendment as presented. No plan or amendment shall be implemented if it was  
 4 rejected by a legislative committee. If a hearing is not held within thirty days after  
 5 receipt of the plan or amendment by such committees, then the plan or amendment  
 6 may be implemented as approved by the commissioner. Approval by the  
 7 commissioner shall not be unreasonably withheld. If the plan of operation is  
 8 disapproved in whole or in part, the commissioner shall provide written reasons as to  
 9 each disapproved part, and the association shall resubmit the part of the plan which  
 10 has been disapproved by the commissioner within thirty days thereafter. The  
 11 preceding plan of operation shall remain in effect until such time as the revised plan  
 12 is effective.

\* \* \*

C. The plan of operation shall:

\* \* \*

16 (6) Establish procedures for records to be kept of all financial transactions of  
 17 the association, its agents, and the board of directors. All such records shall be  
 18 subject to review by either or both the Senate Committee on Insurance ~~and/or~~ and the  
 19 House Committee on Insurance upon written request of the respective legislative  
 20 chairman.

\* \* \*

22 D. The plan of operation may provide that any or all powers and duties of the  
 23 association, except those under R.S. 22:2058(A)(3) and ~~R.S. 22:2058(B)(2)~~ are  
 24 delegated to a corporation, association, or other organization which performs or will  
 25 perform functions similar to those of this association, or its equivalent, in two or more  
 26 states. Such a corporation, association, or organization shall be reimbursed as a  
 27 servicing facility would be reimbursed and shall be paid for its performance of any  
 28 other functions of the association. A delegation under this ~~subsection~~ Subsection  
 29 shall take effect only with the approval of both the board of directors and the

1 commissioner, and may be made only to a corporation, association, or organization  
2 which extends protection not substantially less favorably and effective than that  
3 provided by this Part.

4 §2060. Duties and powers of the commissioner

5 A. The commissioner shall:

6 (1) Notify the association of the existence of an insolvent insurer ~~not~~ no later  
7 than three days after he receives notice of the determination of the insolvency. The  
8 association shall be entitled to a copy of a petition seeking an order of liquidation with  
9 a finding of insolvency against a member company at the same time that the petition  
10 is filed.

11 \* \* \*

12 §2061.1. Net worth exclusion

13 A. For purposes of this Part "high net worth insured" shall mean any  
14 policyholder or named insured, other than any state or local governmental agency or  
15 subdivision thereof, whose net worth exceeds twenty-five million dollars on  
16 December thirty-first of the year prior to the year in which the insurer becomes an  
17 insolvent insurer; ~~provided that~~ if an insured's net worth on that date shall be deemed  
18 to include the aggregate net worth of the insured and all of its subsidiaries and  
19 affiliates as calculated on a consolidated basis. The consolidated net worth of the  
20 insured and all of its affiliates shall be calculated on the basis of their fair market  
21 values. The members of a group self-insurance fund formed ~~under Subpart J of Part~~  
22 ~~1 of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950~~ pursuant to R.S.  
23 23:1191 et seq. shall not be deemed to be affiliates of the fund, and shall not be  
24 included in the determination of the net worth of the fund. For the purposes of this  
25 Section, a group self-insurance fund, and each individual member of the fund upon  
26 whose behalf a claim is submitted, shall be deemed to be policyholders or named  
27 insureds of any policy of insurance issued to the fund.

28 \* \* \*

1 §2062. Exhaustion of other coverage

2 A.

3 \* \* \*

4 (2)

5 \* \* \*

6 (a) The credit shall be deducted from the lesser of: the following:

7 (i) The association's covered claim limit;

8 (ii) The amount of the judgment or settlement of the claim; ~~or.~~

9 \* \* \*

10 (5) For purposes of this Section, a claim under an insurance policy other than  
11 a life insurance policy or annuity shall include, but is not limited to:

12 (a) A claim against a health maintenance organization, a hospital plan  
13 corporation, a professional health service corporation or disability insurance policy,  
14 liability coverage, uninsured or underinsured motorist liability coverage,  
15 hospitalization, coverage under self-insurance certificates, preferred provider  
16 organization, or similar plan, and any and all other medical expense coverage; ~~and.~~

17 \* \* \*

18 (6) In the case of a claimant alleging personal injury or death caused by  
19 exposure to asbestos fibers or other claim resulting from exposure to, release of, or  
20 contamination from any environmental pollutant or contaminant, any and all other  
21 insurance available to the insured for ~~said~~ the claim for all policy periods for which  
22 insurance is available must first be exhausted before recovering from the association,  
23 even if an insolvent insurer provided the only coverage for one or more policy periods  
24 of the alleged exposure. Only after exhaustion of all solvent insurer's total policy  
25 aggregate limits for any alleged exposure periods will the association be obligated to  
26 provide a defense and indemnification within the obligations of this Part, subject to  
27 a credit for the total amount thereof, whether or not the total amount has actually been  
28 paid or recovered.

29 \* \* \*

1 §2083. Coverages and limitations

2 A. This Part shall provide coverage for the policies and contracts specified  
3 in Subsection B of this Section:

4 \* \* \*

5 (2) To any person who is the owner of or certificate holder under such a  
6 policy or contract, and who: is either:

7 (a) ~~Is a~~ A resident; ~~or.~~

8 \* \* \*

9 C. The benefits for which the association shall become liable shall in no event  
10 exceed the ~~lessor of:~~ lesser of the following:

11 (1) The contractual obligations for which the insurer is liable or would have  
12 been liable if it were not an impaired or insolvent insurer; ~~or.~~

13 \* \* \*

14 §2084. Definitions

15 As used in this Part:

16 \* \* \*

17 (6) "Impaired insurer" means a member insurer which, after September 30,  
18 1991, is not an insolvent insurer, and meets at least one of the following criteria:

19 (a) Is deemed by the commissioner to be potentially unable to fulfill its  
20 contractual obligations; ~~.~~

21 (b) Is placed under an order of rehabilitation or conservation by a court of  
22 competent jurisdiction; ~~or.~~

23 (c) In the case of a stock insurer, whose paid-in capital, minimum surplus and  
24 operating surplus, or in the case of a mutual insurer, whose minimum surplus and  
25 operating surplus does not satisfy the minimum level required by ~~the Louisiana~~  
26 Insurance this Code.

27 \* \* \*

1 §2085. Creation of the association

2 \* \* \*

3 C.(1) Notwithstanding any other provision of law to the contrary, the  
4 association is not and may not be deemed a department, unit, agency, instrumentality,  
5 commission, or board of the state for any purpose unless specifically set forth herein  
6 and shall not be subject to laws governing such departments, units, agencies,  
7 instrumentalities, commissions, or boards of the state. All debts, claims, obligations,  
8 and liabilities of the association, whenever incurred, shall be the debts, claims,  
9 obligations, and liabilities of the association only and not of the state, its agencies,  
10 instrumentalities, officers, or employees. The state may not budget for or provide  
11 general fund appropriations to the association, and the debts, claims, obligations, and  
12 liabilities of the association may not be considered to be a debt of the state or a pledge  
13 of its credit. The association shall be subject to the provisions of ~~Title 24 of the~~  
14 ~~Louisiana Revised Statutes of 1950~~ R.S. 24:513 et seq. regarding audits by the  
15 legislative auditor. The form established by the commissioner pursuant to R.S.  
16 22:2064 for the financial report shall determine the association's accounting method  
17 and basis of financial reporting for all purposes notwithstanding any other provision  
18 to the contrary.

19 \* \* \*

20 (3) The association may hold an executive session pursuant to R.S. 42:16 for  
21 discussion of one or more of the following, and R.S. 44:1 et seq. shall not apply to  
22 any documents as enumerated in R.S. 44:1(A)(2) which relate to one or more of the  
23 following:

24 \* \* \*

25 (g) Discussion by or documents in the custody or control of any committee  
26 or subcommittee of the association, or any member or agent thereof, or the board of  
27 directors or any member or agent thereof, provided if such discussion or documents  
28 would otherwise be protected from disclosure by any of the exceptions provided in  
29 this Paragraph.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §2086. Board of directors

2 \* \* \*

3 B. Vacancies on the board shall be filled for the remaining period of the term  
4 by a majority vote of the remaining board members, subject to the approval of the  
5 commissioner. ~~To select the initial board of directors and initially organize the~~  
6 ~~association, the commissioner shall give notice to all insurers of the time and place~~  
7 ~~of the organizational meeting. In determining voting rights at the organizational~~  
8 ~~meeting, each insurer shall be entitled to one vote in person or by proxy. If the board~~  
9 ~~of directors is not selected within sixty days after notice of the organizational~~  
10 ~~meeting, the commissioner may appoint the initial members.~~

11 \* \* \*

12 D. Members of the board may be reimbursed from the assets of the  
13 association for reasonable expenses incurred by them as members of the board of  
14 directors. The members of the board shall ~~not~~ otherwise not be compensated by the  
15 association for their services.

16 §2087. Powers and duties of the association

17 A. If a member insurer is an impaired domestic insurer, the association may,  
18 in its discretion, subject to any conditions imposed by the association, take such  
19 actions as do not impair the contractual obligations of the impaired insurer, that are  
20 approved by the commissioner:

21 \* \* \*

22 (2) Provide such monies, pledges, notes, guarantees, or other means as are  
23 proper to effectuate ~~R.S. 22:2087(A)(1)~~ Paragraph (1) of this Subsection and assure  
24 payment of the contractual obligations of the impaired insurer pending action under  
25 ~~R.S. 22:2087(A)(1)~~. Paragraph (1) of this Subsection.

26 \* \* \*

27 B.(1) If an insurer is an impaired insurer, whether domestic, foreign, or alien,  
28 and the insurer is not paying claims timely, then subject to the preconditions specified

1 in ~~R.S. 22:2087(A)(2)~~, Paragraph (A)(2) of this Section, the association shall, in its  
2 discretion, either:

3 (a) Take any of the actions specified in ~~R.S. 22:2087(A)~~, Subsection A of this  
4 Section, subject to the conditions ~~therein~~ in that Section.

5 \* \* \*

6 (2) The association shall be subject to the requirements of ~~R.S. 22:2087(B)(1)~~  
7 Paragraph (1) of this Section only if:

8 \* \* \*

9 C. If a member insurer is an insolvent insurer, the association shall, in its  
10 discretion, either:

11 \* \* \*

12 (2) With respect only to life and health insurance policies, provide benefits  
13 and coverages in accordance with ~~R.S. 22:2087(D)~~. Subsection D of this Section.

14 D. When proceeding under ~~R.S. 22:2087(B)(1)(b)~~ Subparagraph (B)(1)(b) of  
15 this Section or ~~(C)(2)~~, Paragraph (C)(2) of this Section, the association shall, with  
16 respect to only life and health insurance policies:

17 \* \* \*

18 (3) With respect to individual policies, make available to each known insured,  
19 or owner if other than the insured, and with respect to an individual formerly insured  
20 under a group policy who is not eligible for replacement group coverage, make  
21 available substitute coverage on an individual basis in accordance with the provisions  
22 of ~~R.S. 22:2087(D)(4)~~, Paragraph (4) of this Subsection, if the insureds had a right  
23 under law or the terminated policy to convert coverage to individual coverage or to  
24 continue an individual policy in force until a specified age or for a specified time,  
25 during which the insurer shall have no right to unilaterally alter any provision of the  
26 policy or undertake alterations only in premium by class.



1 assessment against an insurer is abated, or deferred in whole or in part, the amount by  
2 which such assessment is abated or deferred may be assessed against the other  
3 insurers in a manner consistent with the basis for assessments set forth in ~~R.S.~~  
4 ~~22:2088~~. this Section. Once the conditions that caused a deferral have been removed  
5 or rectified, the member insurer shall pay all assessments that were deferred pursuant  
6 to a repayment plan approved by the association.

7 \* \* \*

8 §2089. Plan of operation

9 A.

10 \* \* \*

11 (2) ~~If the association fails to submit a suitable plan of operation within one~~  
12 ~~hundred twenty days following September 30, 1991 or if at any time thereafter the~~  
13 ~~association fails to submit suitable amendments to the plan, the commissioner shall,~~  
14 ~~after notice and hearing, adopt and promulgate such reasonable rules as are necessary~~  
15 ~~or advisable to effectuate the provisions of this Part. The rules shall continue in force~~  
16 ~~until modified by the commissioner or ~~superseded~~ superseded by a plan submitted by~~  
17 ~~the association and approved by the commissioner.~~

18 \* \* \*

19 C. The plan of operation shall, in addition to requirements enumerated  
20 elsewhere in this Part:

21 \* \* \*

22 (8) Establish procedures ~~whereby~~ by which a director may be removed for  
23 cause, including, but not limited to, the case where the director of a member insurer  
24 becomes impaired or insolvent.

25 \* \* \*

1 §2091. Prevention of insolvencies

2 A. To aid in the detection and prevention of insurer insolvencies or  
3 impairments, it shall be the duty of the commissioner:

4 \* \* \*

5 (2) To report to the board of directors when he has taken any of the actions  
6 set forth in ~~R.S. 22:2091(A)(1)~~ Paragraph (1) of this Subsection or has received a  
7 report from any other commissioner indicating that any such action has been taken in  
8 another state. Such report to the board of directors shall contain all significant details  
9 of the action taken or the report received from another commissioner or other  
10 appropriate official.

11 \* \* \*

12 E.(1) The board of directors may, upon majority vote, request that the  
13 commissioner order an examination of any member insurer which the board in good  
14 faith believes may be an impaired or insolvent insurer. Within thirty days of the  
15 receipt of such a request, the commissioner shall begin such an examination. The  
16 examination may be conducted as a National Association of Insurance Commissioners  
17 examination or may be conducted by such persons as the commissioner designates.  
18 The cost of such examination shall be paid by the association, and the examination  
19 report shall be treated as are other examination reports. In no event shall such  
20 examination report be released to the board of directors prior to its release to the  
21 public, but this shall not preclude the commissioner from complying with ~~R.S.~~  
22 ~~22:2091(A)~~ Subsection A of this Section.

23 \* \* \*

24 §2092. Offsets for assessments paid

25 \* \* \*

26 D. Any sums which are acquired by refund, from the association by insurers,  
27 and which have theretofore been offset against premium, franchise, and income taxes  
28 as provided in ~~R.S. 22:2092(A)~~ Subsection A of this Section shall be paid by the

1 insurers to this state in such manner as the tax authorities may require. The  
2 association shall notify the commissioner that such refunds have been made.

3 \* \* \*

4 §2093. Miscellaneous provisions

5 \* \* \*

6 E.(1) If an order for liquidation or rehabilitation of an insurer domiciled in  
7 this state has been entered, the receiver appointed under such order shall have a right  
8 to recover on behalf of the insurer, from any affiliate that controlled it, the amount of  
9 distributions, other than stock dividends paid by the insurer on its capital stock, made  
10 at any time during the five years preceding the petition for liquidation or rehabilitation  
11 subject to the limitations of ~~R.S. 22:2093(E)~~ Paragraphs (2) and (4): of this  
12 Subsection.

13 \* \* \*

14 §2098. Prohibited advertisement of Insurance Guaranty Association Act in insurance  
15 sales; notice to policyholders

16 \* \* \*

17 B. Within one hundred eighty days of September 30, 1991, the association  
18 shall prepare a summary document describing the general purposes and current  
19 limitations of the Part and complying with R.S. 22:2092(C). This document shall be  
20 submitted to the commissioner for approval. Sixty days after receiving such approval,  
21 no insurer may deliver a policy or contract described in R.S. 22:2083(B)(1) to a policy  
22 or contract holder unless the document is delivered to the policy or contract holder  
23 prior to or at the time of delivery of the policy or contract except if ~~R.S. 22:2098(D)~~  
24 Subsection D of this Section applies. The document shall also be available upon  
25 request by a policyholder. The distribution, delivery, or contents or interpretation of  
26 this document shall not mean that either the policy or the contract or the holder  
27 thereof would be covered in the event of the impairment or insolvency of a member  
28 insurer. The description document shall be revised by the association as amendments  
29 to this Part may require. Failure to receive this document shall not give the

1 policyholder, contract holder, certificate holder, or insured any greater rights than  
2 those stated in this Part.

3 C. The document prepared pursuant to ~~R.S. 22:2098(B)~~ Subsection B of this  
4 Section shall contain a clear and conspicuous disclaimer on its face. The  
5 commissioner shall promulgate a rule establishing the form and content of the  
6 disclaimer. The disclaimer shall:

7 \* \* \*

8 §2112. Formation of fire insurance patrol associations

9 A. Two-thirds of the fire insurance companies regularly licensed and  
10 authorized to do business in this state, may voluntarily organize, in any city of fifty  
11 thousand or more population, an association for the purpose of protecting life and  
12 property from fire in such cities. The association shall be known as the fire insurance  
13 patrol of the city in which it is organized.

14 B. Every fire insurance company regularly licensed and authorized to do  
15 business in the city in which the association has its domicile shall be a member of the  
16 association and shall have one vote.

17 §2113. Officers; management

18 A. The officers of each association are its president, ~~vice-president~~ vice  
19 president, secretary, and the members of its board of directors or executive  
20 committee. These officers shall be citizens of the state and residents of the city in  
21 which the association is organized.

22 B. The management of the associations organized under the provisions of this  
23 Part is vested in the board of directors or executive committee.

24 §2114. Certificate of approval

25 Immediately after organization of an association pursuant to this Part, the  
26 president, the secretary, and the board of directors or executive committee thereof  
27 shall file with the commissioner of insurance a certified copy of the constitution and  
28 ~~by-laws~~ bylaws and a certified list of the fire insurance companies subscribing  
29 thereto. If the organization is found to conform to the provisions of this ~~Sub-part~~,

1 Part, the commissioner of insurance shall furnish the association with a certificate of  
2 approval.

3 \* \* \*

4 §2118. Annual statements by fire ~~insurers~~, insurers; assessments for expenses of  
5 associations

6 A. An association may require a statement to be furnished it annually by all  
7 fire insurance companies, associations, or underwriters writing fire insurance,  
8 regularly licensed and authorized to do business in the state, showing the gross  
9 amount of premiums received for insuring movable and immovable property against  
10 loss by fire in the city in which the association has its domicile, for the twelve months  
11 next preceding December thirty-first of each year. Only return premiums paid during  
12 the twelve months shall be deducted from the gross premiums. This statement shall  
13 be made on forms furnished by the association and shall be sworn to by the president,  
14 secretary, general agent, or manager of the fire insurance company, association, or  
15 underwriter. It shall be filed with the secretary of the fire insurance patrol association  
16 within sixty days after the close of the year which it covers.

17 B. To pay its expense, any association, through its board of directors or  
18 executive committee, may levy an assessment on all fire insurance companies,  
19 associations, or underwriters regularly licensed and authorized to do business in this  
20 state, in proportion to the several amounts of gross premiums received by each, less  
21 return premiums paid. This assessment shall be based on the estimated expenses for  
22 the current year, together with liabilities due, and shall never exceed two ~~per cent~~  
23 percent of the gross amount of premiums received, less return premiums paid. The  
24 assessment shall be paid at the time of the filing of the statement provided for in this  
25 Section.

26 §2119. Delinquent members of associations; demand for statements and collection  
27 of assessments by commissioner of insurance

28 The secretaries of the various associations shall report to the commissioner of  
29 insurance all fire insurance companies, associations, or underwriters failing to make

1 statements of the amount of premiums received as provided in R.S. 22:2118 or failing  
 2 to pay the assessments levied pursuant to that Section, with a statement of the amount  
 3 due by each. The commissioner of insurance shall make demand on the delinquent  
 4 companies for the statements, and shall collect the amounts due by such delinquent  
 5 companies. He shall pay over the sums so collected to the association. For this  
 6 service, the commissioner of insurance shall deduct a fee of five ~~per cent~~ percent of  
 7 the amount collected and paid over.

\* \* \*

9 §2132. Authority; creation, powers

\* \* \*

11 C. The board of directors shall consist of the commissioner of insurance or  
 12 his designee, the state treasurer or his designee, a representative of the Louisiana State  
 13 Police Insurance ~~Fraud~~ Fraud/Auto Theft unit, the chairman of the Senate Committee  
 14 on Insurance or his designee, the chairman of the House Committee on Insurance or  
 15 his designee, and six members to be appointed as follows: four members shall be  
 16 appointed by the commissioner, including two members representing purchasers of  
 17 motor vehicle insurance in this state and two members representing motor vehicle  
 18 insurers doing business in this state. Two members shall be appointed by the attorney  
 19 general, both of whom shall represent law enforcement officials in this state. The  
 20 commissioner shall serve as chairperson of the authority.

21 D. The members of the board of directors, except the commissioner of  
 22 insurance or his designee, the state treasurer or his designee, the representative of the  
 23 Louisiana State Police Insurance ~~Fraud~~ Fraud/Auto Theft unit, and the legislative  
 24 members serving on the board, shall not be considered public employees by virtue of  
 25 their service on the board of directors.

\* \* \*

27 §2133. Authority; further powers and duties

28 The authority shall have the powers necessary and convenient to implement  
 29 and effectuate the purposes and provisions of this Part and the purposes of the

1 authority and the powers delegated by other laws, including but not limited to the  
2 power to:

3 \* \* \*

4 (2) Solicit and accept gifts, grants, donations, loans, and other assistance from  
5 any person or entity, private or public, or the federal, state, or local governments or  
6 any agency thereof, ~~said~~ such gifts, grants, donations, loans, and other assistance to  
7 be immediately deposited upon receipt into the fund ~~described~~ provided for in R.S.  
8 22:2134(A).

9 \* \* \*

10 §2135. Plan of operation

11 A. The authority shall develop and implement a plan of operation upon the  
12 recommendations of the director, ~~no later than the first of January 2005.~~

13 \* \* \*

14 §2147. Plan of operation

15 A.

16 \* \* \*

17 (2) ~~If the consortium fails to submit a suitable plan of operation within one~~  
18 ~~hundred twenty days following September 30, 1995, or if~~ If at any time ~~thereafter~~ the  
19 consortium fails to submit suitable amendments to the plan, the commissioner may,  
20 after notice and public hearing, adopt and promulgate such reasonable rules as are  
21 necessary or advisable to effectuate the provisions of this Part. The rules shall  
22 continue in force until modified by the commissioner or ~~superseded~~ superceded by  
23 a plan submitted by the consortium and approved by the commissioner.

24 \* \* \*

25 §2161. Louisiana Health Care Commission; creation

26 A. There is hereby created the Louisiana Health Care Commission within the  
27 Department of Insurance. The commission shall be domiciled in Baton Rouge, and  
28 its members shall serve for terms of two years, ~~beginning July 1, 1999.~~ The  
29 functions, duties, and responsibilities of the commission shall be to review and study

1 the availability, affordability, and delivery of quality health care in the state. The  
 2 commission shall specifically examine the rising costs of health care in the state,  
 3 including but not limited to the cost of administrative duplication, the costs associated  
 4 with excess capacity and duplication of medical services, and the costs of medical  
 5 malpractice and liability and shall examine the adequacy of consumer protections, as  
 6 well as the formation and implementation of insurance pools that better assure  
 7 citizens the ability to obtain health insurance at affordable costs and encourage  
 8 employers to obtain health care benefits for their employees by increased bargaining  
 9 power and economies of scale for better coverage and benefit options at reduced  
 10 costs. Further, the commission shall examine the implementation issues related to  
 11 national health care reform initiatives. Of the members of the commission, three  
 12 members shall be appointed from a list of nominees submitted by the governing  
 13 boards of state colleges and universities and by a dean from the business schools  
 14 represented by the Louisiana Association of Independent Colleges and Universities.  
 15 One member of the Senate Committee on Insurance shall be appointed by the  
 16 president of the Senate and one member of the House Committee on Insurance shall  
 17 be appointed by the speaker of the House of Representatives to the commission to act  
 18 as ex officio, nonvoting members. One member of the commission shall be appointed  
 19 by the secretary of the Department of Health and Hospitals. The commissioner of  
 20 insurance shall appoint five at-large members to the commission. The remainder of  
 21 the members shall be appointed by the commissioner of insurance from a list of  
 22 nominees, one nominee to be submitted by each of the following:

\* \* \*

(6) Louisiana ~~Trial Lawyers'~~ Association: for Justice.

\* \* \*

§2171. Louisiana Property and Casualty Insurance Commission

A. The legislature hereby creates the Louisiana Property and Casualty  
Insurance Commission within the Louisiana Department of Insurance. The functions,  
 duties, and responsibilities of the commission shall be to review and examine the

1 availability and affordability of property and casualty insurance in the state of  
2 Louisiana. Further, the commission shall undertake a comprehensive study and  
3 provide oversight and enforcement recommendations of the effectiveness of law  
4 enforcement and implementation of programs aimed at enforcement throughout the  
5 state of those laws and programs which affect automobile insurance rates.

6 B. The commission shall be domiciled in the city of Baton Rouge and its  
7 members shall serve for terms of two years, ~~beginning July 1, 2001.~~

8 C. The commission shall consist of the following members:

9 \* \* \*

10 (7) A representative of the ~~National Association of Independent Insurers,~~  
11 Property Casualty Insurers Association of America, selected by its governing body,  
12 or his designee.

13 \* \* \*

14 (13) A representative of the Independent Insurance Agents and Brokers of  
15 Louisiana.

16 \* \* \*

17 (21) A representative of law enforcement or his designee, selected jointly by  
18 the superintendent of state police, the secretary of the Department of Public Safety  
19 and Corrections, the president of the Louisiana Association of Chiefs of Police, and  
20 the president of the Louisiana ~~Sheriff's~~ Sheriffs' Association.

21 \* \* \*

22 E. The automobile insurance ad hoc committee shall consist of the following  
23 members:

24 \* \* \*

25 (6) The representative of the ~~National Association of Independent Insurers~~  
26 Property Casualty Insurers Association of America and/or his designee.

27 \* \* \*

28 (14) A representative of the Independent Insurance Agents and Brokers of  
29 Louisiana.

1 F. The homeowners ad hoc committee shall consist of the following  
2 members:

3 \* \* \*

4 (5) A representative of the Independent Insurance Agents and Brokers of  
5 Louisiana.

6 \* \* \*

7 (12) The representative of the ~~National Association of Independent Insurers~~  
8 Property Casualty Insurers Association of America or his designee.

9 G. The workers' compensation insurance ad hoc committee shall consist of  
10 the following members:

11 \* \* \*

12 (5) A representative of the Independent Insurance Agents and Brokers of  
13 Louisiana.

14 \* \* \*

15 (11) A representative of the ~~Department of Labor,~~ Louisiana Workforce  
16 Commission, office of workers' compensation or his designee, appointed by the  
17 executive director.

18 (12) The representative of the ~~National Association of Independent Insurers~~  
19 Property Casualty Insurers Association of America or his designee.

20 \* \* \*

21 §2181. Establishment of the Louisiana State University Health Sciences Center  
22 Health Maintenance Organization

23 \* \* \*

24 B. Subject to the approval of the commissioner of insurance, the chancellor  
25 of the Louisiana State University Health Sciences Center may promulgate rules and  
26 regulations, in accordance with the procedures provided in R.S. 17:1519.2(D), to  
27 create the Louisiana State University Health Sciences Center Health Maintenance  
28 Organization and to institute some collection of payment from the enrollees of the  
29 Louisiana State University Health Sciences Center Health Maintenance Organization.

1 Such rules and regulations shall provide for a board of the organization which  
 2 represents both patients and health care professionals. Such rules and regulations  
 3 shall specify the organizational features of the organization which shall, except for  
 4 minimum financial requirements and the requirements for incorporation, comply with  
 5 the provisions of Subpart I of Part I of Chapter 2 of this Title-, R.S. 22:241 et seq. The  
 6 minimum financial requirements and the requirements for incorporation provided in  
 7 ~~said~~ such Subpart I for health maintenance organizations, are hereby waived for the  
 8 organization created as provided in this Section.

9 \* \* \*

10 §2191. Hearings

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

14 (1) If required by any provision of this Code; ~~or,~~

15 \* \* \*

16 §2205. Appeal

17 All appeals from a decision of the ~~Division of Administrative Law~~ division  
 18 of administrative law shall be in accordance with the Administrative Procedure Act,  
 19 R.S. 49:950 et seq.

20 §2206. Use of injunctive process

21 Notwithstanding any law to the contrary, the commissioner is empowered to  
 22 seek the enforcement of any lawful written order or to secure the prevention or  
 23 discontinuance of any violation of a prohibitory or mandatory licensing provision of  
 24 this Code by legal action for injunction which may be filed in the district court in  
 25 either the parish of East Baton Rouge or the parish in which the offender is domiciled,  
 26 and he shall be represented in such actions by the attorney general or the attorney for  
 27 his department; ~~if such there is.~~

28 \* \* \*

1 §2208. Administrative hearings

2 As provided in Chapter 13-B of Title 49 of the Louisiana Revised Statutes of  
3 1950, R.S. 49:991 et seq., the division of administrative law shall conduct any  
4 hearings required by any provision of this Chapter.

5 §2221. Pilot programs; Department of Insurance; establishment

6 The Louisiana Workforce Commission and the Department of Insurance,  
7 conjunctively, after consultation with the office of workers' compensation  
8 administration in the Louisiana Workforce Commission, are hereby authorized to  
9 establish no more than five pilot health insurance programs, which may consist of  
10 groups or associations of employers for twenty-four-hour insurance coverage, ~~that~~  
11 ~~shall terminate five years after the first date of operation of the program, unless~~  
12 ~~extended by an act of the legislature.~~ The pilot program shall monitor the medical,  
13 hospital, and remedial care of employees and the provision of prompt, effective care  
14 and earlier restoration of earning capacity without diminution of the quality of that  
15 care of the injured or disabled employee. In order to implement the pilot health  
16 insurance program for employees, the Louisiana Workforce Commission and the  
17 Department of Insurance, conjunctively, shall:

18 \* \* \*

19 §2222. Pilot program; certain provisions

20 \* \* \*

21 D. The Louisiana Workforce Commission and the Department of Insurance,  
22 conjunctively, shall issue an interim report ~~on or before December 1, 1994,~~ and a final  
23 report ~~on or before the termination date of August 15, 1995,~~ to the speaker of the  
24 House of Representatives, the president of the Senate, the members of the respective  
25 committees on insurance in the House of Representatives and Senate, and the  
26 governor, on its activities, findings, and recommendations about the pilot program  
27 ~~herein.~~ in this Part. The Louisiana Workforce Commission and the Department of  
28 Insurance, conjunctively, shall monitor, evaluate, and report the following

1 information regarding physicians, hospitals, facilities, and other medical care  
2 providers:

3 \* \* \*

4 §2223. Pilot program; requirements, contents

5 \* \* \*

6 F. Any insurance policy issued under a pilot program shall insure the  
7 employer's obligation to a named insured throughout the entire period of any illness  
8 or disability, specifically, but not limited to the duration of benefits as provided under  
9 the Louisiana Workers' Compensation law or ~~the Louisiana Insurance law~~ this Code  
10 for an employee and his dependents.

11 \* \* \*

12 §2243. Small employer and individual insurance program criteria

13 Any small employer or individual insurance program developed shall include  
14 but not be limited to the following features:

15 \* \* \*

16 (2) Eligibility criteria that limit participation to health insurance issuers who  
17 have not been found to be financially impaired by the department in the preceding two  
18 years. For purposes of this Section, the term "health insurance issuer" shall mean an  
19 insurance company, including a health maintenance organization as defined and  
20 licensed pursuant to Subpart I of Part I of Chapter 2 of this Title-, R.S. 22:241 et seq.

21 \* \* \*

22 §2244. Blanket insurance program; criteria by Department of Health and Hospitals;  
23 exemptions

24 A. Any blanket insurance program developed by the Department of Health  
25 and Hospitals shall include but not be limited to the following components:

26 \* \* \*

27 (2) The eligibility criteria for health insurance issuers that limit participation  
28 to health insurance issuers who have not been found to be financially impaired by the  
29 Department of Insurance in the preceding two years and have been selected by the

1 Department of Health and Hospitals. For purposes of this Section, the term "health  
2 insurance issuer" shall mean an insurance company, including a health maintenance  
3 organization as defined and licensed pursuant to Subpart I of Part I of Chapter 2 of  
4 this Title-, R.S. 22:241 et seq.

5 \* \* \*

6 §2261. Central database for contact information on life insurance policies

7 \* \* \*

8 B. ~~On and after January 1, 2004, any~~ Any member of the immediate family  
9 of a decedent searching for life insurance policies covering the decedent may file a  
10 written request with the department for a search pursuant to this Section, provided if  
11 the decedent was a resident or former resident of this state. Any such request shall  
12 include a copy of the subject decedent's death certificate. The right to file a written  
13 request for a search pursuant to this Section may not be assigned.

14 \* \* \*

15 §2291. Louisiana Citizens Property Insurance Corporation; declaration and purpose;  
16 construction

17 It is hereby declared by the Legislature of Louisiana that an adequate market  
18 for fire with extended coverage and vandalism and malicious mischief insurance and  
19 homeowners coverage is necessary to the economic welfare of the state, including the  
20 coastal areas of the state, and that without such insurance the orderly growth and  
21 development of the state would be severely impeded; and that adequate insurance  
22 upon property is necessary to enable owners of homes and commercial owners to  
23 obtain financing for the purchase and improvement of their property. It is further  
24 declared that the state has an obligation to provide an equitable method whereby  
25 every licensed insurer writing fire, extended coverage, and vandalism and malicious  
26 mischief and, if necessary, homeowners coverage on a direct basis in Louisiana is  
27 required to meet its public responsibility instead of shifting the burden to a few  
28 willing and public-spirited insurers. While deserving praise, the financing  
29 mechanisms of the former plans were insufficient to meet the needs of this area. It is

1 the purpose of this Chapter to accept this obligation and to provide a mandatory  
 2 program to assure an adequate market for fire, extended coverage, and vandalism and  
 3 malicious mischief and, if necessary, homeowners insurance in the coastal and other  
 4 areas of Louisiana. The legislature intends by this Chapter that property insurance be  
 5 provided and that it continues, as long as necessary, through an entity organized to  
 6 achieve efficiencies and economies, all toward the achievement of the foregoing  
 7 public purposes. Therefore, the Louisiana Citizens Property Insurance Corporation,  
 8 a nonprofit corporation, is hereinafter created, and ~~said~~ such corporation shall operate  
 9 insurance plans which shall function exclusively as residual market mechanisms to  
 10 provide essential property insurance for residential and commercial property, solely  
 11 for applicants who are in good faith entitled, but are unable, to procure insurance  
 12 through the voluntary market. The legislature further intends that the corporation  
 13 work toward the ultimate depopulation of these residual market insurance plans.  
 14 Because it is essential for the corporation to have the maximum financial resources  
 15 to pay claims following a catastrophic hurricane, it is the intent of the legislature that  
 16 the income of the corporation be exempt from federal income taxation and that  
 17 interest on the debt obligations issued by the corporation be exempt from federal  
 18 income taxation.

19 §2292. Definitions

20 As used in this ~~Subpart~~, Part, unless the context otherwise requires:

21 \* \* \*

22 §2293. Creation of the Louisiana Citizens Property Insurance Corporation

23 \* \* \*

24 D.

25 \* \* \*

26 (2) The corporation may hold an executive session pursuant to R.S. 42:16 for  
 27 discussion of one or more of the following, and R.S. 44:1 through 41 shall not apply  
 28 to any documents as enumerated in R.S. 44:1(A)(2) which relate to one or more of the  
 29 following:

1 (a) Underwriting files, except that a policyholder or an applicant shall have  
2 access to his ~~or her~~ own underwriting files.

3 \* \* \*

4 (f) All information relating to the medical condition or medical status of a  
5 corporation employee which is not relevant to the employee's capacity to perform his  
6 ~~or her~~ duties, except as otherwise provided in this Paragraph. Information which is  
7 exempt shall include but is not limited to information relating to workers'  
8 compensation, insurance benefits, and retirement or disability benefits.

9 \* \* \*

10 (3) When an authorized insurer is considering underwriting a specific risk  
11 insured by the corporation, relevant underwriting files and confidential claims files  
12 may be released to the insurer ~~provided~~ if the insurer agrees in writing, notarized and  
13 under oath, to maintain the confidentiality of such files. When a file is transferred to  
14 an insurer that file is no longer a public record because it is not held by an agency  
15 subject to the provisions of the ~~public records law~~ Public Records Law.  
16 Notwithstanding the provisions of this Subsection, the corporation shall not provide  
17 either a partial or complete list of the plans' insureds, applicants, or claimants to any  
18 voluntary insurer.

19 §2294. Board of directors of corporation

20 A. The governing body of the corporation shall be a board of directors which  
21 shall consist of the following members, who shall be representative of the state's  
22 population as near as practicable:

23 \* \* \*

24 (5) Six representatives appointed by the governor; one from a list of two  
25 nominees from the Louisiana Bankers Association; one from a list of two nominees  
26 from the Louisiana Home Builders Association; one from a list of two nominees from  
27 the Society of Louisiana Certified Public Accountants; one from a list of two

1 nominees from the Louisiana District Attorneys Association; and the remaining two  
2 representatives shall be appointed at large.

3 \* \* \*

4 §2296. Immunity from liability

5 \* \* \*

6 B. Such immunity from liability does not apply to:

7 (1) Any of the persons or entities listed in Subsection A ~~hereof~~ of this  
8 Section for any willful tort or criminal act.

9 \* \* \*

10 §2297. Powers and duties of Louisiana Citizens Property Insurance Corporation

11 \* \* \*

12 D. The corporation shall:

13 \* \* \*

14 (8) Perform such other acts as are necessary or proper to effectuate the  
15 purpose of this ~~Subpart~~ Chapter.

16 \* \* \*

17 §2302. Eligibility; application

18 \* \* \*

19 E. The corporation shall include a disclosure statement with each application  
20 and policy which notifies the policyholder that ~~they~~ he may obtain a list of insurance  
21 producers and insurance companies that may be able to write their insurance coverage  
22 in the private insurance market. This disclosure shall be on a separate page from the  
23 policy and shall be distinctly labeled in fourteen point or larger type size. The  
24 disclosure shall include a description of the specific method of accessing the  
25 Louisiana Department of Insurance website including the website address. The  
26 disclosure shall also include a list, from the website of the Department of Insurance,  
27 of the insurance companies referenced ~~above~~ in this Subsection.

28 \* \* \*

1 §2307. Plan deficits; financing

2 \* \* \*

3 G. The corporation may pledge, assign, and grant a security interest in the  
4 assessments, insurance and reinsurance recoverables, surcharges, and other funds  
5 available to the corporation as the source of revenue for and to secure bonds or other  
6 indebtedness, including without limitation lines of credit or other financing  
7 mechanisms issued or created under this Subsection pursuant to the procedures of  
8 Chapter 13 of Title 39 of the Louisiana Revised Statutes of 1950, R.S. 39:1421; et  
9 seq., ~~as amended~~, or to retire any other debt incurred as a result of deficits or events  
10 giving rise to deficits, or in any other way that the governing board determines will  
11 efficiently recover such deficits and use such funds to pay any current or other  
12 obligations on the bonds or other indebtedness even if no event of default has  
13 occurred under the bonds or other indebtedness. The purpose of the lines of credit or  
14 other financing mechanisms is to provide additional resources to assist the corporation  
15 in covering claims and expenses attributable to a catastrophe. As used in this  
16 Subsection, the term "assessments" includes regular assessments under Subsection B  
17 or C of this Section, and emergency assessments under Subsection E of this Section.  
18 Emergency assessments collected under Subsection E of this Section are not part of  
19 an insurer's rates, are not premium, and are not subject to premium tax, fees, or  
20 commissions. However, failure to pay the emergency assessment shall be treated as  
21 failure to pay premium. The emergency assessments under Subsection E of this  
22 Section shall continue to be levied and collected and shall be used to make any  
23 payments due with respect to any bonds issued or other indebtedness incurred with  
24 respect to a deficit for which the assessment was imposed remains outstanding, even  
25 if no event of default has occurred under the bonds or other indebtedness, unless  
26 adequate protection and provision has been made for the payment of such bonds or  
27 other indebtedness pursuant to the documents governing such bonds or other  
28 indebtedness.

29 \* \* \*

1 §2308. Louisiana Citizens Property Insurance Corporation not taxable

2 The corporation shall be considered a political instrumentality of the state, and  
3 shall be exempt from any corporate income tax. However, the corporation is not and  
4 shall not be deemed a department, unit, or agency of the state. All debts, claims,  
5 obligations, and liabilities of the corporation, whenever and however incurred, shall  
6 be the debts, claims, obligations, and liabilities of the corporation only, and not of the  
7 state, its agencies, officers, or employees. Corporation funds shall not be considered  
8 part of the general fund of the state, and the state shall not appropriate corporation  
9 funds. The state's contribution to the corporation is limited to those funds collected  
10 by the corporation pursuant to the authority granted under R.S. 22:2303(B), ~~of this~~  
11 ~~Chapter~~, and the state shall not budget for or provide general fund appropriations to  
12 the corporation. The premiums, assessments, investment income, and other revenue  
13 of the corporation are funds received for providing property insurance coverage as  
14 required by this Section, paying claims for Louisiana citizens insured by the  
15 corporation's plans, securing and repaying debt obligations issued by the corporation,  
16 and conducting all other activities of the corporation, and shall not be considered  
17 taxes, fees, licenses, or charges for services imposed by the legislature on individuals,  
18 businesses, or agencies outside state government. It is the intent of the legislature that  
19 the tax exemptions provided in this Section will augment the financial resources of  
20 the corporation to better enable fulfillment of the public purpose. Any bonds issued  
21 by or on behalf of the corporation and the plans, their transfer, and the income  
22 therefrom, including any profit made on the sale thereof, shall at all times be free  
23 from taxation of every kind by the state and any political subdivision or local unit or  
24 other instrumentality thereof.

25 \* \* \*

26 §2313. ~~Agents; Producers;~~ authority to bind coverage

27 A. Every ~~agent~~ producer licensed to sell property and casualty insurance may  
28 sell insurance policies which are issued by the Louisiana Citizens Property Insurance  
29 Corporation through its FAIR and Coastal ~~plans~~ Plans.



1 §2316. Underwriting

2 With respect to contracting with service providers to underwrite insurance  
3 policies, the corporation shall give preference to service providers and businesses  
4 engaged in the business of underwriting insurance policies, who have underwriters  
5 domiciled in Louisiana for a period of not less than two years, ~~provided~~ if the  
6 underwriting of ~~said~~ such policies is subject to a fee schedule or other fixed fee  
7 arrangement. For purposes of reciprocal preference, the provisions of this Section  
8 shall only apply to the Louisiana Citizens Property Insurance Corporation.

9 \* \* \*

10 §2326. Functions of the plan

11 A. All participants in the plan shall participate in its writings, expenses,  
12 profits, and losses in the proportion that the net direct premium of such participant  
13 written in this state during the preceding calendar year bears to the aggregate net  
14 direct premiums written in this state by all participants in the plan during the  
15 preceding calendar year as certified to the governing committee of the plan by the  
16 commissioner of insurance after review of annual statements, other reports and other  
17 statistics the commissioner shall deem necessary to provide the information ~~herein~~  
18 required in this Section and which the commissioner is hereby authorized and  
19 empowered to obtain from any participant in the plan.

20 \* \* \*

21 §2363. Cooperative endeavors; grants; regulations

22 \* \* \*

23 B. The commissioner of insurance may grant matching capital funds to  
24 qualified property insurers in accordance with the requirements of this Chapter from  
25 the fund. The commissioner shall adopt and promulgate rules and regulations in  
26 accordance with the Administrative Procedure Act, R.S. 49:950 et seq., governing the  
27 application process and award of grants, use of grant funds, reporting requirements  
28 and other regulations to assure compliance with and to carry out the purposes of the  
29 program.

1 §2364. Implementation; grant limitations

2 A. The commissioner of insurance shall adopt and promulgate rules and  
3 regulations to implement this program as soon as possible and in accordance with the  
4 Administrative Procedure Act, R.S. 49:950 et seq.

5 \* \* \*

6 F. Prior to the award of any grant pursuant to the provisions of this Chapter,  
7 such grant shall be subject to the review and approval of the Joint Legislative  
8 Committee on the Budget. The use of grant funds and unexpended and  
9 unencumbered monies pursuant to the provisions of ~~R.S. 22:2372~~ and Subsection D  
10 of this Section shall not be subject to review and approval of the Joint Legislative  
11 Committee on the Budget.

12 \* \* \*

13 §2369. Net written premium requirements

14 \* \* \*

15 E.(1) The commissioner shall promulgate rules pursuant to the Administrative  
16 Procedure Act, R.S. 49:950 et seq., to establish procedures to monitor the net written  
17 premium of insurers receiving any grant under this Chapter to ensure that the insurer  
18 is in compliance with the provisions of this Section. These rules shall include  
19 provisions for the return of grant money to the state, on a pro rata basis, for failure to  
20 meet the requirements of this Section. Notwithstanding the provisions of R.S.  
21 22:2370 to the contrary, the commissioner shall seek the return of unearned grant  
22 money from any insurer who has not been in compliance with this Section for five  
23 consecutive years commencing on January 1, 2009, and ending on December 31,  
24 2013.

25 \* \* \*

26 Section 2. R.S. 22:1824(C), 2028(D)(3), 2161(A)(7), (12), (34), and (37),  
27 2171(C)(20), (E)(17), and (G)(13), and 2303(D)(1) are hereby repealed in their entirety.

## 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)]

Cromer

HB No. 595

**Abstract:** Provides for technical recodification of certain provisions of the La. Insurance Code.

Proposed law makes numerous technical changes to present law, specifically certain provisions of the La. Insurance Code. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, and harmonizing of inconsistent provisions.

(Amends R.S. 22:23(D)(3)(b), 242(10), 653(A)(intro. para.), 851(A), 912(C), (D), and (E), 931(A)(10)(a), 1821(A), (C), (D)(1), (2)(e) and (g)(i)(aa), and (3)(c)(intro. para.) and (i), (d)(intro. para.) and (i)-(iv), and (e), and (F)(1), 1825(B)(intro. para.) and (C)(intro. para.) and (4), 1859(F), 1875, 1879(A), (B)(1)(intro. para.), and (C), 1880(B)(1)(intro. para.), (C)(intro. para.), and (D)(intro. para.), 1892(B)(1), (C)(1), and (D)(2), 1901(4), 1902(A)(2) and (9), 1903(C)(2)(intro. para.), 1904, 1905(C)(intro. para.) and (1), 1907, 1909(B) and (C), 1921(B) and (C), 1923(1)(a) and (g), 1926(A), 1927(B), 1928(B), 1941, 1942, 1944, 1945, 1946, 1962(C) and (F), 1964(1)(g), (7)(a), (b), and (h), (9), (10)(c), (11), (13), (15)(c)(i), (iii), and (vii), (19)(b)(i)(intro. para.) and (c)(i), (20), (24), and (25), 1967, 1968, 1971(C), 1973(B)(intro. para.), 1981(A)(2) and (3) and (C)(intro. para.), 1983(D)-(H) and (I)(1) and (2), 1984(A) and (G), 1988, 1989, 1992, 1994(A), 2001, 2002(2) and (4), 2003(1)(e) and (f), 2005, 2006, 2008(A), 2009(E)(2) and (4), 2010(D), 2012(A)(intro. para.) and (3) and (B), 2013(B), 2018(A) and (B), 2019, 2020(C), 2021(A), 2023(C)(2), 2025(4), 2026, 2027(B), 2028(B), (C), and (D)(6), 2029, 2032, 2033(B), 2034(G) and (H), 2035(A) and (D), 2036(C), 2038(3), 2044, 2055(6)(a)(ii), (7)(intro. para.) and (a), (9)(a)(intro. para.) and (i) and (b), (12), and (15), 2056(C)(2)(f), 2058(A)(1)(a)(i) and (ii), (b)(i) and (ii), and (3)(a)(iv), 2059(A)(1), (C)(6), and (D), 2060(A)(1), 2061.1(A), 2062(A)(2)(a)(intro. para.) and (i) and (ii), (5)(a), and (6), 2083(A)(2)(intro. para.) and (a) and (C)(intro. para.) and (1), 2084(6), 2085(C)(1) and (3)(g), 2086(B) and (D), 2087(A)(2), (B)(1)(intro. para.) and (a) and (2)(intro. para.), (C)(2), (D)(intro. para.) and (3) and (4)(a), (E), (I)(intro. para.), (J), and (M)(3), 2088(D), 2089(A)(2) and (C)(8), 2091(A)(2) and (E)(1), 2092(D), 2093(E)(1), 2098(B) and (C)(intro. para.), 2112, 2113, 2114, 2118, 2119, 2132(C) and (D), 2133(2), 2135(A), 2147(A)(2), 2161(A)(intro. para.) and (6), 2171(A), (B), (C)(7), (13), and (21), (E)(6) and (14), (F)(5) and (12), and (G)(5), (11), and (12), 2181(B), 2191(A)(intro. para.) and (1), 2205, 2206, 2208, 2221(intro. para.), 2222(D)(intro. para.), 2223(F), 2243(2), 2244(A)(2), 2261(B), 2291, 2292(intro. para.), 2293(D)(2)(a) and (f) and (3), 2294(A)(5), 2296(B)(1), 2297(D)(8), 2302(E), 2307(G), 2308, 2313, 2314(F), 2315(A), 2316, 2326(A), 2363(B), 2364(A) and (F), and 2369(E)(1); Repeals R.S. 22:1824(C), 2028(D)(3), 2161(A)(7), (12), (34), and (37), 2171(C)(20), (E)(17), and (G)(13), and 2303(D)(1))