

Regular Session, 2012

HOUSE BILL NO. 1210 (Substitute for House Bill No. 807 by Representative Huval)

BY REPRESENTATIVE HUVAL

ETHICS/CODE: Provides ethics exceptions to allow insurance producers providing certain insurance functions and services to governmental entities to receive compensation from other sources

1 AN ACT

2 To amend and reenact R.S. 42:1123(37), relative to ethics; to provide exceptions to the
3 Code of Governmental Ethics relative to the provision of certain insurance services
4 and compensation related thereto; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:1123(37) is hereby amended and reenacted to read as follows:

7 §1123. Exceptions

8 This Part shall not preclude:

9 * * *

10 (37)(a) An insurance producer ~~of record, as provided for in R.S. 22:1564(B),~~
11 ~~from providing all of the~~ as defined in R.S. 22:1542(6), from serving as the
12 insurance producer of record as provided in R.S. 22:1564(B) for a governmental
13 entity; from providing any normal insurance services for a governmental entity; and
14 from providing risk management services to ~~for~~ for a governmental entity, including but
15 not limited to providing advice or recommendations regarding insurance coverages,
16 markets, costs, terms, selection of coverages and all related matters ~~or any~~
17 combination thereof; provided that:

18 (i) An insurance producer, as defined in R.S. 22:1542(6), who ~~solicits to be~~
19 ~~producer of record or serves as producer of record for a governmental entity~~ provides

1 or solicits to provide any of the services in this Subparagraph shall not serve in any
2 other official ~~decision-making~~ decisionmaking capacity over insurance issues for the
3 governmental entity, including but not limited to elected or appointed positions,
4 advisory committees, as an employee, or as risk manager.

5 (ii) Any insurance producer who has served in any official decisionmaking
6 capacity over insurance issues for a governmental entity, including but not limited
7 to elected or appointed positions, advisory committees, as an employee, or as risk
8 manager, and who wishes to solicit ~~or serve as producer of record~~ to provide any of
9 the services in this Subparagraph for that same governmental entity shall comply
10 with the provisions of R.S. 42:1121.

11 (b)(i) An insurance producer ~~of record may be~~ from being compensated by
12 means of normal commissions or pursuant to a written contract providing for
13 payment of a stipulated fee, or both for any of the services in Subparagraph (a) of
14 this Paragraph; provided that ~~where the insurance producer of record receives any~~
15 ~~compensation from the governmental entity for the placement of insurance coverages~~
16 ~~and represents the governmental entity with respect to that placement~~, the insurance
17 producer shall fully disclose to the governmental entity in writing all fees,
18 commissions, or other compensation payable to the producer ~~of record~~ from the
19 insurer or any source other than the governmental entity that relate to the ~~placement~~
20 ~~of the insurance coverages~~ services provided.

21 (ii) An insurance producer who provides any of the services in Subparagraph
22 (a) of this Paragraph for a governmental entity from receiving fees, commissions,
23 or other compensation payable to the insurance producer from insurance companies
24 for services rendered to those insurance companies for products or services sold to
25 other governmental entities or persons that do not directly relate to the services
26 provided by the insurance producer to the governmental entity; provided the
27 insurance producer discloses to the governmental entity any fees, commissions, or
28 other compensation payable to the producer from any insurer or other source which
29 is providing or is seeking to provide insurance coverages to the governmental entity.

1 (c) Nothing in this Paragraph shall prohibit a governmental entity from
2 contracting with an insurance ~~consultant~~ producer separate from the producer of
3 record to provide risk management services and to assist the governmental entity in
4 making insurance decisions.

5 (d) The provisions of this Paragraph shall not apply to individually
6 underwritten guaranteed renewable limited benefit health insurance policies.

7 * * *

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)]

Huval

HB No. 1210

Abstract: Expands certain ethics exceptions to allow insurance producers providing certain insurance functions and services to governmental entities to receive compensation from other sources.

Present law (Code of Governmental Ethics) generally prohibits a public servant and certain associated persons from participating in certain transactions that involve the governmental entity of the public servant. Prohibits certain contractual arrangements or transactions between a public servant, or certain associated persons, and the public servant's agency. Provides that persons who have or who are seeking a business or financial or contractual relationship with the public servant's agency are prohibited sources of compensation to the public servant.

Present law provides an exception to present law which provides that an insurance producer of record shall not be precluded by the ethics code from providing all of the normal insurance and risk management services to a governmental entity, including but not limited to providing advice or recommendations regarding insurance coverages, markets, costs, terms, selection of coverages and all related matters; provided that an insurance producer who solicits to be producer of record or serves as producer of record for a governmental entity shall not serve in any other official decisionmaking capacity over insurance issues for the governmental entity, including but not limited to elected or appointed positions, advisory committees, as an employee, or as risk manager and that any insurance producer who has served in any official decisionmaking capacity over insurance issues for a governmental entity who wishes to solicit or serve as producer of record for that same governmental entity shall comply with the two-year post service restrictions in the ethics code.

Proposed law provides instead that an insurance producer shall not be precluded by the ethics code from serving as the insurance producer of record; from providing any of the normal insurance services; from providing risk management services, including but not limited to providing advice or recommendations regarding insurance coverages, markets, costs, terms, selection of coverages and all related matters or any combination thereof for a governmental entity, provided that an insurance producer who provides or solicits to provide any of those services shall not serve in any other official decisionmaking capacity over insurance issues for the governmental entity, including but not limited to elected or appointed positions, advisory committees, as an employee, or as risk manager and that any insurance producer who has served in any official decisionmaking capacity over insurance

issues for a governmental entity who wishes to solicit to provide any of the services for that same governmental entity shall comply with the two-year post service restrictions in the ethics code.

Present law specifies that the insurance producer of record may be compensated by means of normal commissions or pursuant to a written contract providing for a stipulated fee, or both, provided that an insurance producer of record fully disclose in writing to the governmental entity all fees, commissions, or other compensation payable to the producer of record from the insurer or any source other than the governmental entity that relate to the placement of the insurance coverages.

Proposed law provides instead that the ethics code does not preclude an insurance producer being compensated by means of normal commissions or pursuant to a written contract providing for a stipulated fee, or both, for any of the services authorized pursuant to proposed law provided that the producer shall fully disclose to the governmental entity in writing all fees, commissions, or other compensation payable to the producer of record from the insurer or any source other than the governmental entity that relate to the placement of the services provided.

Proposed law further provides that present law (ethics code) does not preclude an insurance producer from receiving fees, commissions, or other compensation payable to the insurance producer from insurance companies for services rendered to those insurance companies for products or services sold to other governmental entities or persons that do not directly relate to the services provided by the insurance producer to the governmental entity; provided that all fees, commissions, or other compensation payable to the insurance producer from any insurer or other source which is providing or is seeking to provide insurance coverages to the governmental entity is disclosed to the governmental entity.

Present law further specifies that it does not preclude a governmental entity from contracting with an insurance consultant, separate from the producer of record, to provide risk management services and to assist the governmental entity in making insurance decisions.

Proposed law changes "insurance consultant" to "insurance producer" and otherwise maintains present law.

Present law retained by proposed law, specifies that the ethics code exceptions in present law and proposed law do not apply to individually underwritten guaranteed renewable limited benefit health insurance policies.

(Amends R.S. 42:1123(37))