

2015 Regular Session

SENATE BILL NO. 144

BY SENATOR DORSEY-COLOMB

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

INSURANCE PREMIUMS. Requires insurance premium finance companies to cooperate with the Department of Insurance when insurance premiums are paid by an insurance premium finance company. (8/1/15)

AN ACT

To amend and reenact R.S. 22:1266(D)(3)(d)(i) and (4)(b) and 1267(C)(3) and to enact R.S. 22:1266(M) and 1267(G), relative to the payment of insurance premiums; to provide that certain notices be mailed by an insurer related to the refund of certain premiums; to provide that certain notices be mailed by an insurance premium finance company related to the refund of certain premiums; to require that an insurance premium finance company cooperate with the Department of Insurance when insurance premiums are paid by an insurance premium finance company related to a consumer or commercial insurance policy; to require an insurance premium finance company to provide for inspection of certain documents related to a consumer or commercial insurance policy that is financed by the insurance premium finance company; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1266(D)(3)(d)(i) and (4)(b) and 1267(C)(3) are hereby amended and reenacted and R.S. 22:1266(M) and 1267(G) are hereby enacted to read as follows:

§1266. Automobile, property, casualty, and liability insurance policies; cancellations

* * *

1 D. * * *

2 (3) * * *

3 (d)(i) Within ten days of the expiration of the ten-day notice, the insurer shall
4 return all funds paid by the producer to the insurer on behalf of the insured, except
5 **that** when an insurance premium finance company has funded an insured's policy;
6 the insurer shall return those funds directly to the insurance premium finance
7 company. These funds shall be returned by check or other negotiable instrument and
8 shall not be placed on the producer's or premium finance company's account currents
9 unless the producer or premium finance company and the insurer have agreed to
10 other methods for handling these funds. Funds received by the insurance premium
11 finance company in excess of the amount funded by the insurance premium finance
12 company shall be forwarded to the producer. **When funds are returned to the**
13 **premium finance company by an insurer, the insurer shall also mail a copy of**
14 **the check or other negotiable instrument to the insured at the insured's last-**
15 **known address.**

16 * * *

17 (4) * * *

18 (b) When an insurance premium finance company has funded an insured's
19 policy and the policy is cancelled, the insurer shall return the funds directly to the
20 insurance premium finance company. Any funds received by the insurance premium
21 finance company in excess of the amount owed to the insurance premium finance
22 company by the insured shall be forwarded to the producer to be returned to the
23 insured, **and the insurance premium finance company shall also mail to the**
24 **insured a copy of the check or other negotiable instrument representing the**
25 **amount of the payment.** The insurer shall not withhold any more funds from the
26 insurance premium finance company than would otherwise be withheld from the
27 insured. No insurer shall assess a service charge for this transaction.

28 * * *

29 **M.(1) An insurance premium finance company that finances any part**

1 of an insurance policy governed by this Section shall cooperate with the
2 department in any investigation regarding such insurance policy.

3 (2) Upon request by the department, the insurance premium finance
4 company shall make available to the department all documents,
5 correspondence, and cancellation notices related to the insurance policy that is
6 the subject of an investigation as provided in Paragraph (1) in this Subsection
7 that have been received or sent by the insurance premium finance company.

8 (3) An insurance premium finance company that violates any provision
9 of this Section shall be subject to the monetary penalties provided for in R.S.
10 22:13(A).

11 §1267. Commercial insurance; cancellation and renewal

12 * * *

13 C. * * *

14 (3) ~~Nothing in this Section shall require an~~ An insurer to shall provide a
15 notice of cancellation or a statement of reasons for cancellation where cancellation
16 for nonpayment of premium is effected by a premium finance agency company or
17 other entity pursuant to a power of attorney or other agreement executed by or on
18 behalf of the insured.

19 * * *

20 G.(1) An insurance premium finance company that finances any part of
21 an insurance policy governed by this Section shall cooperate with the
22 department in any investigation regarding such insurance policy.

23 (2) Upon request by the department, the insurance premium finance
24 company shall make available to the department all documents,
25 correspondence, and cancellation notices related to the insurance policy that
26 have been received or sent by the insurance premium finance company.

27 (3) An insurance premium finance company that violates any provision
28 of this Section shall be subject to the monetary penalties provided for in R.S.
29 22:13(A).

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 144 Engrossed

2015 Regular Session

Dorsey-Colomb

Present law relative to insurance provides that consumer auto insurance policies and some commercial insurance policies, which are subject to regulation by the Dept. of Insurance, may be financed by an insurance premium finance company.

Present law provides that the office of financial institutions shall license any person who engages in the business of financing insurance premiums for consumers. Present law does not require the licensing of a person who engages in the financing of commercial insurance policies.

Present law provides that no notice of cancellation of a consumer automobile, property, casualty, or liability insurance policy will be effective unless mailed by certified mail or delivered by the insurer to the named insured at least 10 days prior to the date of cancellation when the policy is cancelled for nonpayment of premium. Present law provides that if the insured pays timely the premium within the 10-day period, the insurer shall reinstate the consumer's automobile policy. Present law provides that if the insured does not pay the amount in default, the consumer automobile policy shall be cancelled.

Present law provides that within 10 days after the expiration of the 10-day notice the automobile insurer shall return all funds paid by the insurance agent to the insurer, except when an insurance premium finance company has funded an insured's policy. When an insurance premium company has funded the policy, the insurer shall return those funds directly to the insurance premium finance company.

Proposed law retains present law and adds that when the funds are returned to the premium finance company, the insurer shall mail a copy of the check or other negotiable instrument to the insured at the insured's last-known address.

Present law provides that when an insurance premium finance company has funded an insured's consumer automobile policy and the policy is cancelled and the insurer has returned the funds directly to the insurance premium finance company, any funds received by the insurance premium finance company in excess of the amount owed to the insurance premium finance company by the insured shall be forwarded to the insurance agent to be returned to the insured.

Proposed law retains present law and adds that the insurance premium finance company shall also mail a copy of the check or other negotiable instrument representing the amount of the payment to the insured.

Proposed law provides that an insurance premium finance company that finances any consumer automobile insurance policy shall cooperate with the Dept. of Insurance in any investigation regarding such insurance policy.

Proposed law further provides that upon request by the department, the insurance premium finance company will make available to the Dept. of Insurance all documents, correspondence, and cancellation notices related to the consumer automobile insurance policy received or sent by the insurance premium finance company.

Present law provides that notice of cancellation of a commercial insurance policy shall be mailed or delivered at least 10 days prior to the date of cancellation when the policy is cancelled for nonpayment of premium. Present law provides that commercial policies are all of the following policies: commercial property insurance policies, commercial

automobile insurance policies, commercial multi-peril insurance policies, workers' compensation insurance, professional errors and omissions policies, and commercial liability insurance policies, other than aviation, and employers' liability insurance policies.

Present law provides that the insurer of a commercial policy is not required to provide a notice of cancellation or a statement of reasons for cancellation where cancellation for nonpayment of premium is effected by a premium finance agency or other entity pursuant to a power of attorney or other agreement executed by or on behalf of the insured.

Proposed law requires that the insurer of a commercial policy shall provide notice of cancellation or a statement of reasons for cancellation where cancellation for nonpayment of premium is effected by a premium finance company or other entity pursuant to a power of attorney or other agreement executed by or on behalf of the insured.

Proposed law changes the term related to a financier of premiums on a commercial policy from "premium finance agency" to "premium finance company".

Proposed law adds that an insurance premium finance company that finances any commercial insurance policy shall cooperate with the Dept. of Insurance in any investigation regarding such commercial insurance policy.

Proposed law adds that upon request by the department, an insurance premium finance company that finances a commercial insurance policy shall make available to the Dept. of Insurance all documents, correspondence, and cancellation notices related to the insurance policy received or sent by the insurance premium finance company.

Present law provides that whoever intentionally violates, aids, abets, counsels, or procures another person to violate any provision of the Louisiana Insurance Code intentionally, upon conviction, shall be fined a monetary penalty of not more than \$50,000 if a corporation; a natural person shall be fined not more than \$10,000 or imprisoned with or without hard labor for not more than five years or both.

Proposed law provides that an insurance premium finance company shall be subject to the monetary penalties provided for in present law.

Effective August 1, 2015.

(Amends R.S. 22:1266(D)(3)(d)(i) and (4)(b) and 1267(C)(3); adds R.S. 22:1266(M) and 1267(G))