

SENATE BILL NO. 154

BY SENATOR GARY SMITH

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

1 AN ACT

2 To amend and reenact R.S. 22:1921 and 1922, relative to the division of fraud within the
3 Department of Insurance; to provide with respect to licenses and certificates of
4 authority; to provide for the requirement of fingerprinting of applicants; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1921 and 1922 are hereby amended and reenacted to read as
8 follows:

9 §1921. Purpose and powers

10 A. The purpose of this Part is to create within the Department of Insurance
11 a division of insurance fraud. This division shall be charged with the responsibility,
12 when directed by the commissioner of insurance, to conduct investigations and
13 background criminal checks on each applicant for a license or certificate of authority
14 to transact a business of insurance. The division of insurance fraud shall be
15 governed by the provisions of this Part including the powers and duties relating to
16 the investigation and prevention of administrative or civil violations of the insurance
17 laws of this state.

18 B. In the event the applicant is a corporation, partnership, or other legal
19 entity, the **investigations and** criminal background ~~and~~ checks shall be limited to
20 those individuals who are directors, officers, employees, or individuals who ~~own or~~
21 ~~control at least ten percent~~ **exercise control, as defined in R.S. 22:691.2(3)**, of the
22 entity. **After the receipt of a license or certificate of authority, an individual who**

1 intends to succeed to a position subject to this Subsection or to control, as
 2 defined in R.S. 22:691.2(3), the entity shall undergo an investigation and
 3 criminal background check.

4 C. If the division has reason to believe, whether acting on its own initiative
 5 or as a result of complaints, that a person has engaged in, or is engaging in, an act or
 6 practice that violates this Part or any other provision of this Code, it may examine
 7 and investigate the affairs of such person and may administer oaths and affirmations,
 8 serve subpoenas ordering the attendance of witnesses, and collect evidence.

9 D. If during the course of investigation, the division of insurance fraud
 10 determines that there may be a violation of criminal law, the division shall turn the
 11 matter over to the Department of Justice; the Department of Public Safety and
 12 Corrections, public safety services, office of state police; and any other appropriate
 13 law enforcement or prosecutorial agency, for further investigation, enforcement, or
 14 prosecution.

15 §1922. Additional powers and duties

16 A. The division of insurance fraud ~~is authorized to~~ **shall** have access to
 17 computer systems, information maintained for the use of law enforcement personnel,
 18 any information contained in the criminal history record and identification file of the
 19 Louisiana Bureau of Criminal Identification and Information, and direct and timely
 20 access to information compiled by the Federal Bureau of Investigation, as contained
 21 in the National Crime Information Center, for the purposes of carrying out its
 22 responsibilities under this Part.

23 B. The commissioner of insurance may require each applicant for a license
 24 or certificate of authority to submit ~~physical evidence of~~ **fingerprints to verify** the
 25 identity of the applicant. **An applicant's fingerprints shall be made electronically**
 26 **or by ink and converted to electronic format.** The commissioner of insurance may
 27 promulgate rules and regulations defining ~~the type of physical identification are~~
 28 ~~acceptable and~~ the manner in which such evidence is to be received by the
 29 Department of Insurance.

30 C. **In order to make a determination of eligibility, the commissioner is**

1 authorized to require fingerprints and fees of applicants and to submit the
 2 fingerprints and the fee required to perform the criminal history record checks
 3 to the Louisiana Bureau of Criminal Identification and Information and the
 4 Federal Bureau of Investigation ("FBI") for state and national criminal history
 5 record checks. The commissioner shall require a criminal history record check
 6 on each applicant in accordance with this Section. The commissioner shall
 7 require each applicant to submit a full set of fingerprints in order for the
 8 commissioner to obtain and receive National Criminal History Records from
 9 the FBI Criminal Justice Information Services Division.

10 (1) The commissioner may contract for the collection, transmission, and
 11 resubmission of fingerprints required under this Section. If the commissioner
 12 elects to enter into a contract, the fee for collecting, transmitting, and retaining
 13 fingerprints shall be payable directly to the contractor by the applicant.

14 (2) The commissioner may receive criminal history record information
 15 from sources other than the Louisiana Bureau of Criminal Identification and
 16 Information.

17 D. The commissioner ~~of insurance~~ may deny a license or certificate of
 18 authority when the applicant, or if the applicant is a corporation, partnership, limited
 19 liability company or partnership, or other legal entity, any officer, director, managing
 20 person, employee, or principal stockholder has been convicted of a felony.

21 ~~D.E.~~ The commissioner ~~of insurance~~ may issue a commission authorizing the
 22 deputy commissioner of insurance fraud or any compliance investigator who is
 23 certified by the Council on Peace Officer Standards and Training (P.O.S.T.), or who
 24 may be qualified by the P.O.S.T. Council, to carry and use firearms in performance
 25 of their duties in investigating suspected administrative or civil insurance fraud.
 26 These powers and privileges shall not include arrest powers. The commissioner shall
 27 also provide appropriate credentials and badges of authority.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____