

2016 Regular Session

SENATE BILL NO. 266

BY SENATOR LONG

INSURANCE CLAIMS. Provides relative to the licensing of claims adjusters. (See Act)

1 AN ACT

2 To amend and reenact R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671 (A), (D), (E), (F),
3 and (G), and 1672(A), to enact R.S. 22:1665(F) and 1671(H), and to repeal R.S.
4 22:1662(13), relative to the licensing of insurance claims adjusters; to provide for
5 licensing requirements; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671(A), (D), (E), (F), and
8 (G), and 1672(A) are hereby amended and reenact and R.S. 22:1665(F) and 1671 (H) are
9 hereby enacted to read as follows:

10 §1664. Application for claims adjuster license

11 * * *

12 C.

13 * * *

14 (2) All business entities applying to do business as independent adjusting
15 companies shall provide a listing of all executive officers and directors of the
16 applicant and of all executive officers and directors of entities ~~owning~~ **controlling**
17 and any individuals ~~owning~~ **controlling**, directly or indirectly, ten percent or more

1 of the outstanding voting securities of the applicant. In order to make a determination
2 of eligibility, the commissioner may require any person listed pursuant to this
3 Paragraph to submit addresses, social security numbers, criminal and administrative
4 history, fingerprints, background checks, and biographical statements. **For purposes**
5 **of this Section, "control" has the meaning provided in R.S. 22:691.2.**

6 * * *

7 §1665. Resident license

8 * * *

9 **D. A nonresident who is not eligible for a license pursuant to R.S.**
10 **22:1670 may designate Louisiana as his home state. Such person is required to**
11 **successfully pass the adjuster examination and comply with the other provisions**
12 **of this Section applicable to residents of this state.**

13 **E.** No resident of Canada may be licensed pursuant to R.S. 22:1663, or may
14 designate Louisiana as ~~their~~ **his** home state, unless such person has successfully
15 passed the adjuster examination and has complied with the other applicable ~~portions~~
16 **provisions** of this Section, except that such applicant shall not be required to comply
17 with Paragraph (A)(4) of this Section.

18 **E F.** The commissioner of insurance may require any documents reasonably
19 necessary to verify the information contained in the application.

20 * * *

21 §1669. Exemptions from examination

22 ~~A. An individual who applies for a claims adjuster license in this state who~~
23 ~~was previously licensed as a claims adjuster in another state based on a claims~~
24 ~~adjuster examination shall not be required to complete an examination. This~~
25 ~~exemption is available only if the person is currently licensed in that state or if the~~
26 ~~application is received within twelve months of the cancellation of the applicant's~~
27 ~~previous claims adjuster license and if the prior state issues a certification that, at the~~
28 ~~time of cancellation, the applicant was in good standing in that state or the state's~~
29 ~~producer database records or records maintained by the National Association of~~

1 ~~Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the~~
2 ~~adjuster is or was licensed in good standing.~~

3 ~~B.~~ An individual licensed as a **resident** claims adjuster in another state based
4 on a claims adjuster examination who moves to this state shall make application
5 within ninety days of establishing legal residence to become a resident claims
6 adjuster licensee pursuant to R.S. 22:1665. No examination shall be required of that
7 person to obtain a claims adjuster license. **This exemption is available only if the**
8 **person is currently licensed in the other state, or if the application is received**
9 **within ninety days of the cancellation of the applicant's previous claims adjuster**
10 **license and if the prior state issues a certification that, at the time of**
11 **cancellation, the applicant was in good standing in that state, or the state's**
12 **producer database records or records maintained by the National Association**
13 **of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that**
14 **the adjuster is or was licensed in good standing.**

15 ~~€~~ **B.** An individual who applies for a **resident** claims adjuster license in this
16 state who was previously licensed as a claims adjuster in this state shall not be
17 required to complete an examination. This exemption is available only if the
18 application is received within ~~twelve~~ **twenty-four** months of the cancellation of the
19 applicant's previous claims adjuster license in this state and if, at the time of
20 cancellation, the applicant was in good standing in this state, and had passed the
21 examination required by R.S. 22:1668.

22 **C. The commissioner may waive the workers' compensation examination**
23 **requirement for an individual who has three years of verifiable experience**
24 **adjusting workers' compensation claims within the preceding five years,**
25 **provided the application is received on or before August 1, 2017.**

26 * * *

27 §1671. License

28 A. Unless denied licensure pursuant to this Part, persons who have met the
29 requirements of this Part shall be issued a claims adjuster license. The license shall

1 contain the licensee's name, business address, license number, date of issuance,
2 expiration date, and any other information the commissioner of insurance deems
3 necessary. **A claims adjuster may receive qualification for a license in one or**
4 **more of the following lines of authority:**

5 **(1) Property and casualty.**

6 **(2) Workers' compensation.**

7 **(3) Crop.**

8 **(4) Any limited line pursuant to R.S. 22:1666.**

9 * * *

10 **D. A claims adjuster doing business under any name other than the claim**
11 **adjuster's legal name is required to notify the commissioner of insurance prior**
12 **to using the assumed name. Prior to the use of or changes to any trade name or**
13 **names, a claims adjuster shall provide written notification of such use or change**
14 **to the commissioner, on a form prescribed by the commissioner of insurance.**
15 **A letter of registration from the secretary of state shall accompany the**
16 **application for a trade name. The use by any claims adjuster of a nonapproved**
17 **trade name shall subject such person to a fine not exceeding two hundred fifty**
18 **dollars. Additionally, if the claims adjuster continues to use a nonapproved**
19 **trade name for ten or more days after being notified by the commissioner of**
20 **insurance to cease using the nonapproved trade name, the claims adjuster shall**
21 **be subject to an additional fine not to exceed five thousand dollars. If**
22 **applicable, a claims adjuster shall comply with the provisions of R.S. 51:281 et**
23 **seq.**

24 **E.** A licensed claims adjuster shall be subject to R.S. 22:1961 et seq., relative
25 to unfair trade practices, and R.S. 22:1921 et seq., relative to insurance fraud.

26 ~~E F. A claims adjuster whose license has lapsed may, within twelve months~~
27 ~~from the expiration date of the renewal, reinstate the license upon approval of the~~
28 ~~commissioner of insurance. However, a penalty in the amount of double the unpaid~~
29 ~~renewal fee shall be required for the reinstatement of the claims adjuster license.~~

1 Reinstatement shall be effective on the date the commissioner of insurance approves
 2 the request for reinstatement. A licensed claims adjuster who allows his license to
 3 lapse may, within twenty-four months from the expiration date of the license,
 4 reinstate the same license upon proof of fulfilling all continuing education
 5 requirements through the date of reinstatement and upon payment of all fees
 6 due. If the license has been lapsed for more than twenty-four months, the
 7 applicant shall fulfill the requirements for issuance of a new license.

8 ~~FG.~~ A licensed claims adjuster who is unable to comply with license renewal
 9 procedures due to military service, long-term medical disability, or other extenuating
 10 circumstance, may request a waiver of those procedures. The licensed claims
 11 adjuster may also request a waiver of any examination requirement, fine, or other
 12 sanction imposed for failure to comply with renewal procedures.

13 ~~GH.~~ To assist ~~the commissioner of insurance~~ in his licensing duties, ~~he~~ the
 14 commissioner of insurance may contract with nongovernmental entities, including
 15 the National Association of Insurance Commissioners (NAIC) or any affiliates or
 16 subsidiaries that the National Association of Insurance Commissioners (NAIC)
 17 oversees to perform any ministerial functions, including the collection of fees and
 18 data, related to licensing that the commissioner of insurance may deem appropriate.
 19 §1672. License denial, nonrenewal, or revocation

20 A. The commissioner of insurance may place on probation, suspend, revoke,
 21 or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine
 22 not to exceed five hundred dollars for each violation up to ten thousand dollars
 23 aggregate for all violations in a calendar year, unless a fine is established by separate
 24 statute in this Title authorizing a greater penalty, or any combination of actions, for
 25 any one or more of the following causes:

26 (1) Providing incorrect, misleading, incomplete, or materially false
 27 information in the license or renewal application.

28 (2) Violating ~~any state~~ the insurance law laws or ~~regulation~~ regulations of
 29 the United States, this state, or any other jurisdiction or a subpoena or order of

1 the commissioner of insurance or of another state's insurance commissioner.

2 (3) Obtaining or attempting to obtain a license through misrepresentation or
3 fraud **or improperly using notes or any other reference material to complete an**
4 **examination for an insurance license, or otherwise cheating or attempting to**
5 **cheat on an examination for an insurance license of any kind.**

6 (4) Improperly withholding, misappropriating, or converting any money or
7 property received in the course of conducting insurance business.

8 (5) Intentionally misrepresenting the terms of an actual or proposed insurance
9 contract **binder, rider, plan** or application for insurance, **including all forms or**
10 **documents that are attached, or will be attached, to an actual or proposed**
11 **insurance contract, binder, rider, plan, or application for insurance.**

12 (6) Conviction of a **or nolo contendere plea to any** felony, ~~related to~~
13 **participation in a pretrial diversion program pursuant to a felony charge,**
14 **suspension and deferral of sentence and probation pursuant to Article 893 of**
15 **the Code of Criminal Procedure or similar law of another state, or conviction**
16 **of any misdemeanor involving moral turpitude, public corruption, or** the
17 adjustment of insurance claims.

18 (7) Admitting to or committing fraud or unfair trade practices.

19 (8) Using fraudulent, coercive, or dishonest practices **or demonstrating**
20 **incompetence, untrustworthiness, or financial irresponsibility in the conduct of**
21 **business that might endanger the public.**

22 (9) ~~Demonstrating incompetence, untrustworthiness, or financial~~
23 ~~irresponsibility while conducting business.~~

24 ~~(10) Denial, suspension, or revocation of an insurance license, or its~~
25 ~~equivalent, in any other state, province, district, or territory.~~

26 ~~(11)~~**(10)** Forging a name on an application for insurance or any document
27 related to an insurance transaction.

28 ~~(12) Cheating, including improperly using notes or any other reference~~
29 ~~material, to complete an examination for an insurance license.~~

1 ~~(13)~~**(11)** Knowingly accepting insurance business from an individual who is
2 not licensed but who is required to be licensed by the commissioner of insurance.

3 ~~(14)~~**(12)** Failure to comply with an administrative or court order imposing a
4 child support obligation.

5 ~~(15)~~**(13)** Failure to pay state income tax or comply with any administrative
6 or court order directing payment of state income tax.

7 **(14) The refusal to submit physical evidence of identity or the conviction**
8 **of a felony, in accordance with R.S. 22:1922(B) and (C).**

9 **(15) Employing or allowing to associate with his business, in any manner,**
10 **any person engaged in the business of insurance who has been convicted of a**
11 **felony under the laws of this or any other state, the United States, or any other**
12 **jurisdiction. As used in this Section, "business of insurance" means the writing**
13 **of insurance or the reinsuring of risks by an insurance producer or insurer,**
14 **including all acts necessary or incidental to such writing or reinsuring, and the**
15 **activities of persons who act as, or are, officers, directors, agents, or employees**
16 **of producers or insurers, or who are other persons authorized to act on behalf**
17 **of such persons.**

18 **(16) The conviction of a felony involving dishonesty or breach of trust**
19 **pursuant to 18 U.S.C. §1033 and §1034, without written consent from the**
20 **commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute**
21 **regulating crimes by or affecting persons engaged in the business of insurance**
22 **whose activities affect interstate commerce.**

23 ~~(16)~~**(17)** Violating R.S. 22:1674(F).

24 ~~(17)~~**(18)** Failure to complete assignment of adjustment of a claim in a
25 thorough and timely manner, including submission of the adjustment of a claim to
26 the party which made that assignment.

27 * * *

28 Section 2. R.S. 22:1662(13) is hereby repealed.

29 Section 3. The provisions of Section 2 of this Act shall become effective on August

1, 2017.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Cooper.

DIGEST

SB 266 Original 2016 Regular Session Long

Present law requires all business entities applying to do business as independent adjusting companies to provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, 10% or more of the outstanding voting securities of the applicant. Provides that in order to make a determination of eligibility, the commissioner may require all executive officers and directors to submit addresses, social security numbers, criminal and administrative history, fingerprints, background checks, and biographical statements.

Proposed law changes "owning" to "controlling" and defines "control" to have the same definition as in present law (R.S. 22:691.2).

Present law provides for reciprocity for licensed claims adjusters for those from states that require licensure.

Proposed law deletes present law and provides for the designation of La. the home state for licensure for nonresident adjusters from states that do not require licensure and provides that the adjusters meet all of the requirements required of La resident adjusters.

Present law provides that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in another state based on a claims adjuster examination shall not be required to complete an examination. Provides that this exemption is available only if the person is currently licensed in that state or if the application is received within 12 months of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

Proposed law deletes present law.

Present law provides that an individual licensed as a claims adjuster in another state based on a claims adjuster examination who moves to this state shall make application within 90 days of establishing legal residence to become a resident claims adjuster licensee pursuant to present law (R.S. 22:1665). Provides that no examination is required of that individual to obtain a claims adjuster license.

Proposed law limits this exemption from examination requirements to a person who is currently licensed in another state or if the application is received within 90 days of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

Present law provides that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in La. shall not be required to complete an examination. This exemption is available only if the application is received within 12 months of the cancellation of the applicant's previous claims adjuster license in La. and if, at the time of cancellation, the applicant was in good standing in La., and had passed the required

examination.

Proposed law changes the exemption time frame from 12 to 24 months.

Proposed law permits the commissioner to waive the workers' compensation examination requirement for an individual who has three years of verifiable experience adjusting workers' compensation claims within the preceding five years, provided the application is received on or before August 1, 2017.

Proposed law provides that a claims adjuster may receive qualification for a license in one or more of the following lines of authority:

- (1) Property and casualty.
- (2) Workers' compensation.
- (3) Crop.
- (4) Any limited line for which the commissioner issues a limited license.

Present law provides that a claims adjuster whose license has lapsed may, within 12 months from the expiration date of the renewal, reinstate the license upon approval of the commissioner. Provides that a penalty in the amount of double the unpaid renewal fee shall be required for the reinstatement of the claims adjuster license. Provides that reinstatement shall be effective on the date the commissioner of insurance approves the request for reinstatement.

Proposed law deletes present law and provides that a licensed claims adjuster who allows his license to lapse may, within two years from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements through the date of reinstatement and upon payment of all fees due. Provides that if the license has been lapsed for more than two years, the applicant shall fulfill the requirements for issuance of a new license.

Present law provides that the commissioner may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine not to exceed \$500 for each violation up to \$10,000 aggregate for all violations in a calendar year, unless a fine is established by separate statute Title 22 authorizing a greater penalty, or any combination of actions, for any one or more of the following causes:

- (1) Providing incorrect, misleading, incomplete, or materially false information in the license application.
- (2) Violating any state insurance law or regulation or a subpoena or order of the commissioner of insurance or of another state's insurance commissioner.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting any money or property received in the course of conducting insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Conviction of a felony related to the adjustment of insurance claims.
- (7) Admitting to or committing fraud or unfair trade practices.

- (8) Using fraudulent, coercive, or dishonest practices.
- (9) Demonstrating incompetence, untrustworthiness, or financial irresponsibility while conducting business.
- (10) Denial, suspension, or revocation of an insurance license, or its equivalent, in any other state, province, district, or territory.
- (11) Forging a name on an application for insurance or any document related to an insurance transaction.
- (12) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.
- (13) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner of insurance.
- (14) Failure to comply with an administrative or court order imposing a child support obligation.
- (15) Failure to pay state income tax or comply with any administrative or court order directing payment of state income tax.
- (16) Violating R.S. 22:1674(F).
- (17) Failure to complete assignment of adjustment of a claim in a thorough and timely manner, including submission of the adjustment of a claim to the party which made that assignment.

Proposed law retains present law and adds the following reasons:

- (1) Providing incorrect, misleading, incomplete, or materially false information in the license renewal application.
- (2) Violating the insurance laws or regulations of the United States or any other jurisdiction.
- (3) Intentionally misrepresenting the terms of an actual or proposed insurance binder, rider, or plan, including all forms or documents that are attached, or will be attached, to an actual or proposed insurance contract, binder, rider, plan, or application for insurance.
- (4) Conviction of or a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence and probation pursuant to Article 893 of the Code of Criminal Procedure or similar law of another state, or conviction of any misdemeanor involving moral turpitude, or public corruption, or the adjustment of insurance claims.
- (5) The refusal to submit physical evidence of identity or the conviction of a felony, in accordance with R.S. 22:1922(B) and (C).
- (6) Employing or allowing to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this or any other state, the United States, or any other jurisdiction. As used in proposed law, "business of insurance" means the writing of insurance or the reinsuring of risks by an insurance producer or insurer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as,

or are, officers, directors, agents, or employees of producers or insurers, or who are other persons authorized to act on behalf of such persons.

- (7) The conviction of a felony involving dishonesty or breach of trust pursuant to 18 U.S.C. §1033 and §1034, without written consent from the commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

The above provisions are effective August 1, 2016.

Present law provides an exemption from licensure for workers' compensation adjusters.

Proposed law repeals that exemption effective August 1, 2017.

(Amends R.S. 22:1664(C)(2), 1665(D) and (E), 1669, 1671(A), (D), (E), (F), and (G), and 1672 (A); adds R.S. 22:1665 (F) and 1671(H); repeals R.S. 22:1662(13))