

2016 Regular Session

SENATE BILL NO. 343

BY SENATOR GATTI

INSURANCE DEPARTMENT. Provides relative to the issuance of private letter rulings by the commissioner of insurance. (8/1/16)

AN ACT

To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:15, relative to private letter rulings; to provide authority, definitions, and requirements for private letter rulings; to provide for an exemption from disclosure pursuant to the Public Records Law; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:15 is hereby enacted to read as follows:

§15. Private letter rulings

A. The commissioner may issue private letter rulings addressing the business of insurance in this state.

(1) "Private letter ruling" means a document that states the intent of the commissioner to take no enforcement action with respect to an insurer regarding the subject matter of the private letter ruling.

(2) A private letter ruling shall not be a statement of general applicability for which promulgation of a rule or regulation is appropriate.

(3) A private letter ruling shall be limited in its effect to the matter described in the private letter ruling and shall have no precedential value.

1 (4) Only an insurer may request a private letter ruling. For purposes of
2 this Section "insurer" shall include "health maintenance organization".

3 B. An insurer requesting a private letter ruling shall make a full, true,
4 and accurate disclosure of all information material to the subject of the request.
5 An insurer requesting a private letter ruling shall supplement its initial
6 submission with any additional information or documents that later become
7 available or that respond to a request from the commissioner.

8 (1) The initial submission for each request shall include the following
9 items:

- 10 (a) A statement of the background facts leading to the request.
11 (b) A complete copy of all documents relevant to the request including
12 policies, procedures, and marketing materials.
13 (c) A statement of the laws and regulations applicable to the request.
14 (d) A certification that the transaction described is not the subject of any
15 anticipated, pending, or final judicial or administrative proceedings.
16 (e) A certification that the transaction described has not commenced or,
17 if the transaction has commenced, a statement concerning its status.

18 (2) Each initial or subsequent submission shall include a verification by
19 affidavit that the information contained in the submission is true and correct
20 based on the knowledge, information, and belief of the affiant.

21 (3) An insurer may withdraw the request for a private letter ruling prior
22 to any action taken by the commissioner.

23 C. A private letter ruling shall be effective when issued. The
24 commissioner may revise or withdraw any previously issued private letter
25 ruling. This revision or withdrawal shall have prospective effect only.

26 D. An insurer may assert a private letter ruling as a defense in any
27 proceeding instituted by the commissioner.

28 E. Only the commissioner's response shall be subject to public disclosure.
29 The request, records, working papers, recorded information, or documents

produced or obtained by or disclosed to the commissioner in the course of reviewing a request for a private letter ruling shall be disclosed pursuant to the Public Records Law.

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Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

* * *

(11) R.S. 22:2, 14, **15**, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1, 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1723, 1796, 1801, 1927, 1929, 1983, 1984, 2036, 2056, 2085, 2091, 2293, 2303

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

DIGEST

SB 343 Original

2016 Regular Session

Gatti

Proposed law permits the commissioner to issue private letter rulings addressing the business of insurance in the state. Defines a private letter ruling as a document that states the intent of the commissioner to take no enforcement action with respect to an insurer.

Proposed law limits a private letter ruling in its effect to the matter described in the private letter ruling which is without precedential value. Provides that only an insurer, which includes a health maintenance organization, may request a private letter ruling.

Proposed law requires the initial submission for each request to include:

- (1) A statement of the background facts leading to the request.
- (2) A complete copy of all documents relevant to the request including policies,

procedures, and marketing materials.

- (3) A statement of the laws and regulations applicable to the request.
- (4) A certification that the transaction described is not the subject of any anticipated, pending, or final judicial or administrative proceedings.
- (5) A certification that the transaction described has not commenced or, if the transaction has commenced, a statement concerning the status.

Proposed law requires a private letter ruling to be effective when issued and may be used as a defense in any proceeding instituted by the commissioner.

Proposed law provides that only the commissioner's response shall be subject to public disclosure. Requires the request, records, working papers, recorded information, or documents produced or obtained by or disclosed to the commissioner to be disclosed pursuant to the Public Records Law.

Effective August 1, 2016.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:15)