

2016 Regular Session

HOUSE BILL NO. 663

BY REPRESENTATIVE THIBAUT

INSURERS/AGENTS: Requires notice to a non-captive insurance producer prior to an insurance company terminating the producer's appointment

1 AN ACT

2 To enact R.S. 22:1569, relative to non-captive insurance producers; to provide for
3 definitions; to require notice prior to terminating an appointment; to provide for
4 termination for cause without notice; to provide for payment of certain commissions;
5 to provide for exceptions to notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1569 is hereby enacted to read as follows:

8 §1569. Limitation on termination of independent insurance producers

9 A.(1) For the purposes of this Section, "captive insurance producer" means:

10 (a) Any licensed insurance producer whose agency contract with an
11 insurance company requires the insurance producer to act exclusively as an agent
12 only for that insurance company or group of insurance companies under common
13 ownership.

14 (b) A licensed insurance producer whose contract with an insurance
15 company prohibits the producer from selling competitors' products that are the same
16 or similar to products sold by the insurer, but allows the producer to sell other
17 products that do not directly compete with products sold by the insurer.

18 (2) For purposes of this Section, "non-captive insurance producer" means
19 any licensed insurance producer whose agency contract with an insurance company

1 establishes the insurance producer as an independent contractor with the ability to
2 represent more than one insurance company.

3 B.(1) No admitted insurance company which is authorized to do business in
4 this state shall terminate the appointment or the agency contract of a non-captive
5 insurance producer without the mutual agreement of the parties or without providing
6 at least one hundred eighty days advance written notice, except when the termination
7 is for one of the following reasons which shall constitute "cause" for which an
8 insurer may terminate a producer's appointment without providing such notice:

9 (a) Loss of license.

10 (b) Cause as set forth in R.S. 22:1554.

11 (c) Nonpayment of insurance company premiums due and not in dispute by
12 the producer.

13 (d) Withdrawal of the insurance company from this state.

14 (e) Violation of any state or federal law or regulation, or violation of any
15 provision of the insurer's contract with the producer that would potentially cause the
16 insurer to be in violation of such laws or regulations.

17 (f) Commission of any dishonest or fraudulent act.

18 (g) Gross or willful misconduct or negligence by the producer.

19 (h) Submission of any document bearing a false or unauthorized signature
20 or containing falsified information.

21 (i) Failure to maintain the agent's professional liability coverage required in
22 the agency contract.

23 (j) Change in the ownership of the insurance agency.

24 (2) For purposes of this Section, a reasonable belief by the insurer that any
25 such action has occurred is sufficient to be considered as cause as defined in this
26 Subsection.

27 C.(1)(a) Any admitted insurance company which is authorized to do business
28 in this state shall, upon issuing the written notice required in Subsection B of this
29 Section of the termination or cancellation of a non-captive insurance producer's

1 contract, permit the renewal of all contracts of insurance written by the non-captive
2 insurance producer until the producer's contract is terminated, subject to the normal
3 underwriting requirements of the insurer.

4 (b) If the insured fails to meet the current underwriting requirements of the
5 insurer, the insurer shall provide the policyholder with the statutory notice of
6 nonrenewal.

7 (2) Any insurer renewing contracts of insurance in accordance with this
8 Section shall pay commissions for the renewals to the terminated or cancelled non-
9 captive insurance producer in the same amount and manner as previously paid to the
10 non-captive insurance producer under the terminated or cancelled contract.

11 D. The provisions of this Section shall not apply to:

12 (1) A captive insurance producer.

13 (2) Insurance companies whose agency contract contains a written provision
14 expressly reserving to the insurer all right, title, and interest to the ownership or use
15 of business written by the insurance producer.

16 (3) Nonadmitted, excess, or surplus lines insurance policies.

17 (4) Individually rated excess insurance policies.

18 (5) Non-captive producers writing life, annuity, and health insurance
19 policies.

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)]

HB 663 Reengrossed

2016 Regular Session

Thibaut

Abstract: Requires an insurance company to provide one hundred eighty days notice to a non-captive insurance producer prior to terminating the insurer's appointment.

Present law allows an insurance company to terminate the appointment of an insurance producer.

Proposed law retains present law, but requires the insurance company to provide the producer with 180 days notice prior to the termination of the appointment. Further provides that the 180 days notice does not apply to captive producers, surplus lines, non-captive producers writing life and annuity insurance policies, and certain contractual relationships.

Proposed law allows an insurer to terminate the non-captive producer's appointment without notice under certain conditions for cause.

Proposed law requires an insurer who has terminated a non-captive producer's appointment to renew all contracts of insurance written by the producer for 180 days from the notice of termination. Further requires the insurer to pay the producer commissions for the renewals.

(Adds R.S. 22:1569)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Clarify that proposed law does not apply to captive producers.
2. Add additional reasons allowing termination for cause without the 180 day notice.
3. Add exemptions from the application of proposed law to individually rated excess insurance policies and non-captive producers writing life and annuity insurance policies.
4. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Allow both insurer and agent to change the notice period by mutual agreement.
2. Add additional reasons allowing termination for cause without the 180 day notice.
3. Add exemption from the application of proposed law to non-captive producers writing health insurance policies.