

2016 Regular Session

HOUSE BILL NO. 865

BY REPRESENTATIVE HUVAL

INSURERS/AGENTS: Provides relative to licensing of insurance producers

1 AN ACT

2 To amend and reenact R.S. 22:1545(A) and (C)(1), 1546(B)(1) and (D), 1547(G),  
3 1554(A)(introductory paragraph), and 1562(A), to enact R.S. 22:1554(A)(20) and  
4 (21), and to repeal R.S. 22:1545(B), relative to licensing of insurance producers; to  
5 provide for a passing score for the examination; to provide for taking the  
6 examination prior to filing an application for a license; to provide for verification of  
7 the completion of a preclicensing course prior to examination; to provide for producer  
8 licensing requirements for business entities; to provide for reporting of changes of  
9 information by producers; to provide for certain criteria for the denial, revocation,  
10 or suspension of business entity producer licenses; to provide for prohibited acts by  
11 business entity producers; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:1545(A) and (C)(1), 1546(B)(1) and (D), 1547(G),  
14 1554(A)(introductory paragraph), and 1562(A) are hereby amended and reenacted and R.S.  
15 22:1554(A)(20) and (21) are hereby enacted to read as follows:

16 §1545. Examination

17 A. ~~A~~ Prior to the issuance of a license by the commissioner, a resident  
18 individual applying for an insurance producer license shall pass an examination for  
19 each line of insurance that an applicant seeks to transact in Louisiana unless exempt  
20 pursuant to R.S. 22:1551. The examination shall test the knowledge of the individual  
21 concerning the lines of authority for which application is made, the duties and  
22 responsibilities of an insurance producer, and the insurance laws and regulations of

1       this state. The applicant shall pass the examination with a score of at least seventy  
2       percent. Examinations required by this Section shall be developed and conducted  
3       under rules and regulations prescribed by the commissioner.

4                               \*       \*       \*

5               C. (1) Any person applying for a license as an insurance producer, prior to  
6       taking the examination required by this Subpart, shall ~~file~~ complete a registered  
7       prelicensing program certified by the commissioner pursuant to R.S. 22:1571.  
8       Verification of the completed program shall be filed with the Department of  
9       Insurance, in a manner prescribed by the ~~commissioner, certification that the~~  
10      ~~applicant has completed a registered prelicensing program certified by the~~  
11      ~~commissioner pursuant to R.S. 22:1571.~~ commissioner.

12                            \*       \*       \*

13      §1546. Application for license

14                            \*       \*       \*

15              B.(1)(a) A business entity acting as an insurance producer is required to  
16      obtain an insurance producer license. Every member, partner, officer, director,  
17      ~~stockholder, and employee of the business entity personally engaged in this state in~~  
18      ~~soliciting or negotiating policies of insurance~~ person who controls directly or  
19      indirectly ten percent or more of the applicant shall be registered with the  
20      Department of Insurance under such business entity's license, ~~and each such~~  
21      ~~member, partner, officer, director, stockholder, or employee shall also qualify as an~~  
22      ~~individual licensee for any line of insurance the business entity is licensed to~~  
23      ~~transact. Licensing of any limited liability company or limited liability partnership~~  
24      ~~as an insurance producer is subject to prior approval of the commissioner of~~  
25      ~~insurance.~~ For purposes of this Section, "control" has the same meaning as provided  
26      in R.S. 22:691.2.

27              (b) Every individual who is personally engaged in soliciting or negotiating  
28      policies in this state shall be registered with the Department of Insurance under such

1 business entity's license and shall also qualify as an individual licensee for any line  
2 of insurance that the business entity is licensed to transact.

3           (c) The business entity licensee shall within thirty days notify the  
4           commissioner of insurance of any change of status of an individual who is registered  
5           under the business entity license.

(d) Any business entity operating at more than one location shall notify the commissioner of insurance of each permanent branch location address within thirty days from the date of the opening of the new location. There ~~must~~ shall be at least one individual licensed insurance producer registered with the Department of Insurance for each branch location.

(e) Any business entity which fails to comply with this Subsection shall be subjected to a fine of one hundred dollars for each violation. Any entity against which a fine has been levied shall be given due notice of such action. Upon receipt of this notice, the entity may apply for and shall be entitled to a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

16 \* \* \*

17 D.(1) The commissioner of insurance may require any documents deemed  
18 necessary to verify the information contained in an application.

(2) In order to make a determination of license eligibility, the commissioner of insurance may require fingerprints of applicants and submit the fingerprints and the fees required to perform the criminal history record checks to the Louisiana Bureau of Criminal Identification and Information for state and national criminal history record checks. The commissioner shall require a criminal history record check on each applicant in accordance with this Subpart. The commissioner of insurance shall require each applicant to submit a full set of fingerprints in order for the commissioner of insurance to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

(3) The commissioner of insurance may contract for the collection, transmission, and re-submission of fingerprints required under this Section. If the

1 commissioner ~~of insurance~~ does so, the fee for collecting and transmitting  
2 fingerprints and the fee for the criminal history record check shall be payable directly  
3 to the contractor by the applicant. The commissioner ~~of insurance~~ may agree to a  
4 reasonable fingerprinting fee to be charged by the contractor.

5 (4) The commissioner ~~of insurance~~ shall treat and maintain an applicant's  
6 fingerprints and any criminal history record information obtained under this Section  
7 as confidential and shall apply security measures consistent with the Criminal Justice  
8 Information Services Division of the Federal Bureau of Investigation standards for  
9 the electronic storage of fingerprints and necessary identifying information and limit  
10 the use of records solely to the purposes authorized in this Section. The fingerprints  
11 and any criminal history record information shall be exempt from the public records  
12 law, R.S. 44:1 et seq., shall not be subject to subpoena, other than a subpoena issued  
13 in a criminal proceeding or investigation, shall be confidential by law and privileged,  
14 and shall not be subject to discovery or admissible in evidence in any private civil  
15 action.

16 (5) If the applicant is a business entity, the commissioner may require that  
17 the individuals registered pursuant to Subsection B of this Section submit  
18 fingerprints as provided in this Subsection.

19 \* \* \*

20 §1547. License

21 \* \* \*

22 G. Every licensee shall notify the commissioner, by any means acceptable  
23 to the commissioner, of any ~~alteration in his residential, mailing, or business change~~  
24 of address, legal name, or information submitted on the application within thirty days  
25 of the ~~alteration~~ change. Failure to file such an address change within the required  
26 time shall result in the imposition of a fifty-dollar penalty per violation. Any person  
27 against whom a penalty has been levied shall be given due notice of such action.  
28 Upon receipt of this notice, the licensee may apply for and shall be entitled to a

1 hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

2 \* \* \*

3 §1554. License denial, nonrenewal, or revocation

4 A. The commissioner ~~of insurance~~ may place on probation, suspend, revoke,  
5 or refuse to issue, renew, or reinstate an insurance producer license, or may levy a  
6 fine not to exceed five hundred dollars for each violation occurring, up to ten  
7 thousand dollars aggregate for all violations in a calendar year per applicant or  
8 licensee, or any combination of actions, for any one or more of the following causes:

9 \* \* \*

10 (20) If the producer is a business entity, refuses to remove or discharge any  
11 person registered pursuant to R.S. 22:1546(B) who has been convicted or pleaded  
12 nolo contendere to any felony, participated in a pretrial diversion program pursuant  
13 to a felony charge, suspension and deferral of sentence, and probation pursuant to  
14 Article 893 of the Code of Criminal Procedure, or been convicted of any  
15 misdemeanor involving moral turpitude or public corruption.

16 (21) If the producer is a business entity, refuses to remove or discharge any  
17 person registered pursuant to R.S. 22:1546(B) who has had an insurance producer  
18 license revoked or suspended or is found to have violated any provision of this Code.

19 \* \* \*

20 §1562. Prohibited acts

21 A.(1) No insurer or insurance producer shall pay any money or commission  
22 or brokerage, or give or allow any valuable consideration or compensation to any  
23 person or business entity not duly licensed as an insurance producer, nor to an  
24 insurer not licensed to do business in this state, for or because of service rendered or  
25 performed in this state in selling, soliciting, negotiating, or effecting a contract of  
26 insurance on any property or risks, or insurable interests, or business activities  
27 located within or transacted within this state. The prohibition of this Subsection  
28 shall not apply with respect to any contract of reinsurance.

(2) The prohibition of this Subsection shall not apply to the distribution of profits to the owners of an insurance agency business entity licensed as a producer provided the business entity has complied with the provisions of R.S. 22:1546(B) and the owners are not persons who:

(a) Have been convicted or pleaded nolo contendere to any felony, participated 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 been convicted of any misdemeanor involving moral turpitude or public corruption.

(b) Have had an insurance producer license revoked or suspended or are found to have violated any provision of this Code.

(3) The provisions of ~~this~~ Paragraph (2) of this Subsection shall not apply to the Louisiana Workers' Compensation Corporation.

Section 2. R.S. 22:1545(B) is hereby repealed in its entirety.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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#### 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)]

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HB 865 Engrossed

2016 Regular Session

Huval

**Abstract:** Provides relative to licensing of insurance producers, including producer licensing requirements for business entities.

Proposed law provides relative to licensing of insurance producers as follows:

- (1) Specifies that a resident individual shall pass an examination for each line of insurance that an applicant seeks to transact in this state. Further requires that an applicant shall pass the examination with a score of at least 70%.
- (2) Present law requires a business entity acting as an insurance producer to obtain an insurance producer license. Also requires that every member, partner, officer,

director, stockholder, and employee of the business entity personally engaged in this state in soliciting or negotiating policies of insurance shall be registered with the Dept. of Insurance (DOI) under such business entity's license. Further requires each such person to also qualify as an individual licensee for any line of insurance the business entity is licensed to transact. Specifies that licensing of any limited liability company or limited liability partnership as an insurance producer is subject to prior approval of the commissioner of insurance.

Proposed law retains requirement that a business entity acting as an insurance producer obtain an insurance producer license. However, provides that every member, partner, officer, director, and person who controls directly or indirectly 10% or more of the applicant shall be registered with DOI under such business entity's license. Adds a requirement that every individual who is personally engaged in soliciting or negotiating policies in this state shall be registered with the DOI under such business entity's license and shall also qualify as an individual licensee for any line of insurance that the business entity is licensed to transact. Further authorizes the commissioner of insurance to require that such registered individuals submit fingerprints.

- (3) Present law requires each licensee to notify the commissioner of any alteration in his residential, mailing, or business address within 30 days of the alteration or receive a \$50 penalty per violation.

Proposed law instead requires each licensee to notify the commissioner of any change of address, legal name, or information submitted on the application within 30 days of the change or receive a \$50 penalty per violation.

- (4) Adds the following as grounds for license denial, nonrenewal, or revocation by the commissioner:
- (a) If the producer is a business entity, refusing to remove or discharge a person registered pursuant to (2) above who has been convicted or pleaded nolo contendere to any felony, participated in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence, and probation pursuant to the Code of Criminal Procedure, or been convicted of any misdemeanor involving moral turpitude or public corruption.
  - (b) If the producer is a business entity, refusing to remove or discharge any person registered pursuant to (2) above who has had an insurance producer license revoked or suspended or is found to have violated any provision of the Insurance Code.

- (5) Present law prohibits any insurer or insurance producer from paying any money or commission or brokerage, or giving or allowing any valuable consideration or compensation to any person or business entity not duly licensed as an insurance producer, nor to an insurer not licensed to do business in this state, for or because of service rendered or performed in this state in selling, soliciting, negotiating, or effecting a contract of insurance on any property or risks, or insurable interests, or business activities located within or transacted within this state. Further provides that this prohibition shall not apply to the owners of an insurance agency.

Proposed law provides that this prohibition shall not apply to the owners of a business entity licensed as a producer so long as that entity has complied with the provisions of (2) above and the owners are not persons who:

- (a) Have been convicted or pleaded nolo contendere to any felony, participated in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence, and probation pursuant to the Code of Criminal

Procedure, or been convicted of any misdemeanor involving moral turpitude or public corruption.

- (b) Have had an insurance producer license revoked or suspended or are found to have violated any provision of the Insurance Code.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1545(A) and (C)(1), 1546(B)(1) and (D), 1547(G), 1554(A)(intro. para.) and 1562(A); Adds R.S. 22:1554(A)(20) and (21); Repeals R.S. 22:1545(B))