

Regular Session, 2010

SENATE BILL NO. 671

BY SENATOR HEBERT

INSURANCE RATES. Provide for the examination and investigation of insurers and regulated entities. (8/15/10)

1 AN ACT
2 To amend and reenact R.S. 22:1984 and R.S. 44:4.1(B)(10), relative to examination and
3 investigation of insurers and regulated entities; to provide for financial and market
4 analysis of insurers and regulated entities; to provide for penalties; to provide for
5 confidentiality; to provide for standards and procedures; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1984 is hereby amended and reenacted to read as follows:

9 §1984. Commissioner of insurance to conduct ~~annual office review~~ **financial and**
10 **market analysis** of insurers **and regulated entities**

11 A. In addition to those examinations performed by the commissioner of
12 insurance pursuant to R.S. 22:1981, the commissioner of insurance shall conduct ~~an~~
13 ~~annual office~~ **financial and market analysis** review of all insurers authorized to do
14 business in this state, ~~other than life, health, and accident insurers and nonprofit~~
15 ~~funeral associations~~ **and may conduct regulatory reviews of entities regulated by**
16 **Title 22 or the Department of Insurance**. Such ~~office~~ reviews shall include the
17 annual statement **and the market conduct annual statement** of the insurer **or**

1 **regulated entity** reviewed, company financial reports rendered pursuant to good and
2 acceptable accounting practices, results of insurance solvency standards testing as
3 performed by the National Association of Insurance Commissioners, results of prior
4 examinations and office reviews, management changes, consumer complaints, and
5 such other relevant information as from time to time may be required by the
6 commissioner.

7 **B. In lieu of conducting a financial or market analysis under this Section**
8 **of any foreign or alien insurer licensed in this state, the commissioner may rely**
9 **upon the financial or market analysis conducted by the insurance department**
10 **for the company's state of domicile or port-of-entry state accredited under the**
11 **National Association of Insurance Commissioners' Financial Regulation**
12 **Standards and Accreditation Program.** ~~The commissioner shall timely furnish to~~
13 ~~each reviewed insurer a written report detailing the findings of each such annual~~
14 ~~review. Within forty-five days of its receipt of such written report, each reviewed~~
15 ~~insurer shall provide to the commissioner such response, rebuttal, explanation, or~~
16 ~~other information as it may see fit. The commissioner shall furnish to any person,~~
17 ~~upon request, a copy of the written report, accompanied by a copy of the response,~~
18 ~~rebuttal, explanation, or other information provided by the reviewed insurer.~~

19 **C. Failure by an insurer or regulated entity to supply information**
20 **requested by the Department of Insurance during the course of financial or**
21 **market analysis shall subject the insurer or regulated entity to revocation or**
22 **suspension of its license, or, in lieu thereof, a fine not to exceed ten thousand**
23 **dollars per occurrence.**

24 **D. All working papers, recorded information, documents, and copies**
25 **thereof produced by, obtained by, or disclosed to the commissioner, or any**
26 **other person in the course of conducting a regulatory review, financial, or**
27 **market analysis performed under this Section, shall be given confidential**
28 **treatment and are not subject to subpoena and may not be made public by the**
29 **commissioner or any other person, except that any access may be granted to the**

1 National Association of Insurance Commissioners, insurance department of
 2 other states, international, federal, or state law enforcement agencies or
 3 international, federal, or state regulatory agencies with statutory oversight over
 4 the financial services industry, if the recipient agrees to maintain the
 5 confidentiality of those documents which are confidential under the laws of this
 6 state.

7 E. In conducting financial or market analysis, the examiner or
 8 examiners shall observe those guidelines and procedures set forth in the
 9 Financial Analysis Handbook or Market Regulation Handbook adopted by the
 10 National Association of Insurance Commissioners. The commissioner may also
 11 employ such other guidelines or procedures as the commissioner may deem
 12 appropriate.

13 F. Nothing contained in this Chapter shall be construed to limit the
 14 commissioner's authority to use any final or preliminary analysis findings, any
 15 Department of Insurance or company work papers or other documents, or any
 16 other information discovered or developed during the course of any analysis in
 17 the furtherance of any legal or regulatory action which the commissioner may,
 18 in his sole discretion, deem appropriate.

19 G. Any insurer or regulated entity against whom a fine has been levied
 20 shall be given ten days notice of such action. Upon receipt of this notice, the
 21 aggrieved insurer or regulated entity may apply for and shall be entitled to a
 22 hearing pursuant to R.S. 22:2191, et seq.

23 Section 2. R.S. 44:4.1(B)(10) is hereby amended and reenacted to read as follows:

24 §44:4.1. Exceptions

25 * * *

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

1 citation:

2 * * *

3 (10) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 574, 628, 706, 732, 752, 1203,

4 1460, 1466, 1546, 1644, 1656 1723, 1929, 1983, **1984**, 2036, 2303

5 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

Present law requires the commissioner of insurance to conduct an annual review of all insurers in the state other than life, health, and accident insurers and non-profit funeral associations.

Proposed law removes the current restrictions and requires that the commissioner conduct financial and market analysis of all insurers licensed to do business in the state and conduct regulatory reviews of any entities regulated by the Department of Insurance or regulated under Title 22. Proposed law requires that such reviews include the market conduct annual statement of the insurer or regulated entity.

Proposed law removes the present law requirement that the commissioner timely furnish to each insurer a report detailing the finding of the annual review and for the insurer to send a response to the commission within 45 days.

Proposed law provides that in the case of a foreign insurer licensed in the state, the commissioner may rely upon the financial or market analysis conducted under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program.

Proposed law provides that failure of an insurer or regulated entity to provide requested information to the department during such financial or market analysis shall subject the insurer or regulated entity to revocation or suspension of license or a fine.

Proposed law provides that all working papers, recorded information, documents and copies of those documents utilized in the course of a regulatory review shall be given confidential status and shall not be subject to a subpoena, except in specific circumstances.

Proposed law provides that in the conduct of these financial and market reviews guidelines and procedures set forth in the *Financial Analysis Handbook* or the *Market Regulation Handbook* shall be employed, subject to the commissioner's discretion.

Proposed law provides that nothing in proposed law shall be construed to limit the commissioner's authority to use these findings in any legal or regulatory action which the commissioner deems appropriate.

Proposed law provides for ten days notice to an insurer or regulated entity should any fine be levied.

Present law provides exceptions to documents that are subject to the public records law.

Proposed law to the list of exceptions the financial and market analysis provided under proposed law.

Effective August 15, 2010.

(Amends R.S. 22:1984 and R.S. 44:4.1(B)(10))