

SENATE BILL NO. 216

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 22:3, 31(A)(introductory paragraph) and (B), 32(A)(1)(introductory paragraph) and (B), 33(A)(introductory paragraph), and 2058(B)(6) and R.S. 36:681(C)(1), 687, 691.1, 692, 694, and 696(A), (B)(1)(introductory paragraph) and (b), (C), and (D), to enact R.S. 22:31(C) and (D) and R.S. 36:696(E), and to repeal R.S. 22:31(A)(6), 32(C) and (D), and R.S. 36:696(B)(1)(e), relative to the Louisiana Department of Insurance and related entities; to provide for the composition of the department; to provide relative to the division of diversity and opportunity and the Advisory Committee on Equal Opportunity; to provide with respect to the deputy commissioner for consumer services; to provide relative to the office of health, life and annuity; to provide with respect to the deputy commissioner for consumer advocacy and diversity; to provide with respect to the transfer of certain funds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:3, 31(A)(introductory paragraph) and (B), 32(A)(1)(introductory paragraph) and (B), 33(A)(introductory paragraph), and 2058(B)(6) are hereby amended and reenacted, and R.S. 22:31(C) and (D) are hereby enacted to read as follows:

§3. Composition of Department of Insurance

The Department of Insurance shall be comprised of the office of the commissioner, the office of management and finance, the office of property and casualty, the office of licensing ~~and compliance~~, the office of financial solvency, the office of consumer advocacy **and diversity**, the office of health ~~insurance~~, **life and annuity, the office of consumer services**, the division of insurance fraud, the

1 division of legal services, the division of public affairs, the division of minority
 2 affairs diversity and opportunity and any other office or division that may be
 3 included by the Executive Reorganization Act or other law. Each office or division
 4 shall be administered as prescribed by Titles 36 and 39 of the Louisiana Revised
 5 Statutes of 1950.

6 * * *

7 §31. Division of ~~minority affairs~~ diversity and opportunity

8 A. There is hereby created within the Department of Insurance a division of
 9 ~~minority affairs~~ diversity and opportunity which shall have the following functions
 10 and duties:

11 * * *

12 B. The division of ~~minority affairs~~ diversity and opportunity may conduct
 13 a survey of insurance companies doing business in Louisiana in order to seek
 14 information and data relative to the policies and practices of hiring of and contracting
 15 with minorities. The survey, data, and responses thereto shall not be a public record
 16 as defined by the Public Records Law and shall be exempt from disclosure, except
 17 such exemption shall not apply with respect to the aggregated number of minorities
 18 hired and the positions for which they were hired.

19 C. The division of diversity and opportunity shall review all complaints
 20 alleging a violation of the provisions of this Subpart. Upon receipt of a
 21 complaint, the division shall notify an insurer against whom the complaint was
 22 filed of the nature of the complaint and provide the insurer with the opportunity
 23 to make a written explanation. As a part of the response, the insurer may
 24 submit to the division any affirmative action plan it may have in effect. The
 25 division shall consider any affirmative action plan and any other pertinent
 26 information submitted to it in determining whether or not the insurer has
 27 engaged in a pattern or practice of employment discrimination prohibited by
 28 Part IV of Chapter 3-A of Title 23, R.S. 23:331 et seq.

29 D. The division of diversity and opportunity shall report apparent
 30 violations of this Subpart to the commissioner who may commence enforcement

1 **proceedings in accordance with R.S. 22:33.**

2 §32. Advisory Committee on Equal Opportunity

3 A.(1) There is hereby created within the Department of Insurance, in the
 4 division of ~~minority affairs~~, **diversity and opportunity**, the Advisory Committee on
 5 Equal Opportunity. The committee shall be composed of twenty-five members.
 6 Twenty-four members shall be appointed by the governor and shall serve at his
 7 pleasure. The deputy commissioner of ~~minority affairs~~ **diversity and opportunity**
 8 shall serve ex officio as the twenty-fifth member. Five members shall be appointed
 9 from a list of nominees submitted by the Louisiana chapter of The National
 10 Association for the Advancement of Colored People, the Urban League of Greater
 11 New Orleans, Inc., the Baton Rouge chapter of the National Association for the
 12 Advancement of Colored People, the Monroe chapter of the National Association for
 13 the Advancement of Colored People, and the Shreveport chapter of the National
 14 Association for the Advancement of Colored People. Two members shall be
 15 appointed from a list of nominees submitted by the deans of the business schools of
 16 Dillard University, Xavier University, Southern University, and Grambling
 17 University. Seventeen members shall be appointed from a list of nominees, one
 18 nominee to be submitted by each of the following associations or groups:

19 * * *

20 B. The committee shall assist the commissioner of insurance and the division
 21 of ~~minority affairs~~ **diversity and opportunity** in establishing educational and
 22 informational services to foster a greater awareness of the opportunities available in
 23 the insurance industry and of the skills, training, and education necessary to prepare
 24 for opportunities in employment, appointment as producers, and contracting for
 25 services with insurance companies transacting business in Louisiana. The
 26 commissioner of insurance shall promulgate rules and regulations to implement this
 27 Subpart.

28 * * *

29 §33. Sanctions

30 A. Whenever the commissioner of insurance receives notification of an

1 apparent violation from the ~~advisory committee~~ division of diversity and
 2 opportunity, and determines, after notice and opportunity for a hearing in
 3 accordance with the Administrative Procedure Act, that an insurer has engaged in a
 4 pattern or practice of employment discrimination prohibited by Part IV of Chapter
 5 3-A of Title 23, R.S. ~~23:332~~ 23:331 et seq., he may issue an order requiring the
 6 insurer to cease and desist engaging in such unlawful act or practice. If the insurer
 7 does not comply with the cease and desist order, the commissioner may then:

8 * * *

9 §2058. Powers and duties of the association

10 * * *

11 B. The association may:

12 * * *

13 (6)(a) Refund to the member insurers in proportion to the contribution of
 14 each member insurer to the association that amount by which the assets of the
 15 association exceed the liabilities, if, at the end of any calendar year, the board of
 16 directors finds that the assets of the association exceed the liabilities of the
 17 association as estimated by the board of directors for the coming year.

18 (b) With respect to state fiscal year 2014-2015, the association is hereby
 19 authorized to make a one-time transfer to the state general fund of the amount
 20 of such excess as determined by the board of directors. This one-time
 21 authorization is not intended to create any right or interest of the state in and
 22 to the association's funds, and the legislature hereby affirms its intent that
 23 association monies may not be considered part of the general fund of the state
 24 other than monies subject to the one-time transfer hereby authorized.

25 * * *

26 Section 2. R.S. 36:681(C)(1), 687, 691.1, 692, 694, 696(A),(B)(1)(introductory
 27 paragraph) and (b), (C), and (D) are hereby amended and reenacted and R.S. 36:696(E) is
 28 hereby enacted to read as follows:

29 §681. Department of Insurance; creation; domicile; purposes and functions

30 * * *

1 C.(1) The officers of the department shall be the commissioner of insurance,
 2 the chief deputy commissioner, the deputy commissioner for management and
 3 finance, the deputy commissioner for property and casualty, the deputy
 4 commissioner for insurance fraud, the deputy commissioner for licensing ~~and~~
 5 ~~compliance~~, the deputy commissioner for financial solvency, the deputy
 6 commissioner for health insurance, **life and annuity**, the deputy commissioner for
 7 public affairs, the deputy commissioner for ~~minority affairs~~ **consumer services**, the
 8 deputy commissioner for consumer advocacy **and diversity, the assistant**
 9 **commissioner of diversity and opportunity**, and the executive counsel.

10 * * *

11 §687. Deputy commissioner for ~~minority affairs~~ **consumer services**; functions;
 12 division of ~~minority affairs~~ **consumer services**

13 ~~A. There shall be a deputy commissioner for minority affairs of the~~
 14 ~~Department of Insurance who shall be appointed by the commissioner of insurance~~
 15 ~~and who shall serve at the pleasure of the commissioner at a salary fixed by the~~
 16 ~~commissioner, which salary shall not exceed the amount approved for such position~~
 17 ~~by the legislature while in session. Each appointment by the commissioner shall be~~
 18 ~~submitted to the Senate for confirmation. The deputy commissioner for minority~~
 19 ~~affairs shall be directly responsible to and shall perform his functions under the~~
 20 ~~supervision and control of the commissioner of insurance.~~

21 B. ~~The deputy commissioner for minority affairs shall direct and be~~
 22 ~~responsible for the functions of the division of minority affairs within the~~
 23 ~~Department of Insurance. In such capacity, he shall be responsible for assisting in~~
 24 ~~coordinating the activities of the Advisory Committee on Equal Opportunity;~~
 25 ~~establishing educational and information services regarding opportunities available~~
 26 ~~in the insurance industry and the skills, training, and education necessary to prepare~~
 27 ~~for such opportunities, assisting minority groups in obtaining employment, agent's~~
 28 ~~or agency contracts and contracts for services with insurance companies~~ **There is**
 29 **hereby created a division of consumer services under the direction of the deputy**
 30 **commissioner of consumer services. The duties and functions of the division**

1 and the deputy commissioner shall be the receipt and processing of consumer
 2 complaints, market conduct analysis and examination, and such additional duties
 3 and functions as are assigned by the commissioner.

4 * * *

5 §691.1. Division of insurance fraud

6 There is hereby created a division of insurance fraud in the Department of
 7 Insurance that shall be under the direction of the deputy commissioner for insurance
 8 fraud. The duties and functions of the division of insurance fraud and the deputy
 9 commissioner of insurance fraud shall be the investigation of alleged administrative
 10 or civil fraudulent insurance acts, other administrative or civil violations of the
 11 insurance laws of this state, ~~and executive security,~~ and such additional duties and
 12 functions as assigned by the commissioner.

13 §692. Office of licensing ~~and compliance~~; functions

14 There is hereby created an office of licensing ~~and compliance~~ in the
 15 department of insurance. Such office shall be under the direction of the deputy
 16 commissioner for licensing ~~and compliance~~. The duties and functions of the office
 17 of licensing ~~and compliance~~ and the deputy commissioner ~~for the office of licensing~~
 18 ~~and compliance~~ shall be as provided in this Title and as assigned by the
 19 commissioner.

20 * * *

21 §694. Office of health ~~insurance,~~ life, and annuity; functions

22 There is hereby created an office of health, life, and annuity ~~insurance~~ in the
 23 Department of Insurance. The office shall be under the direction of the deputy
 24 commissioner for health ~~insurance,~~ life, and annuity. The duties and functions of
 25 the office of health ~~insurance,~~ life, and annuity and the deputy commissioner for
 26 health ~~insurance,~~ life, and annuity shall be ~~responsible for~~ development and
 27 administration of health insurance pilot programs as established by the legislature,
 28 research and development of rules and regulations to implement health insurance
 29 reform legislation, research and development of health insurance reform measures
 30 that broaden the availability of health insurance coverage in the state, liaison

1 activities for the Department of Insurance with other state and national agencies for
 2 policy on health insurance, preparation of proposed health insurance reform
 3 legislation by the department; general research and implementation issues
 4 concerning health insurance policy, **approval of life and annuity form filings**, and
 5 additional duties and functions as assigned by the commissioner.

6 * * *

7 §696. Deputy commissioner for consumer advocacy **and diversity**; functions; office
 8 of consumer advocacy **and diversity**

9 A. There is hereby created an office of consumer advocacy **and diversity** in
 10 the Department of Insurance. This office shall be under the direction of the deputy
 11 commissioner for consumer advocacy **and diversity**, who shall be appointed by the
 12 commissioner of insurance with advice and concurrence of the Senate and House
 13 committees on insurance and who shall serve at the pleasure of the commissioner at
 14 a salary fixed by the commissioner, ~~which salary and benefits shall be the same as the~~
 15 ~~majority of the deputy commissioners of the Department of Insurance. The~~
 16 ~~commissioner of insurance shall appoint the deputy commissioner of consumer~~
 17 ~~advocacy by October 1, 2007~~ **that shall not exceed the amount approved for the**
 18 **position by the legislature**. The office of consumer advocacy **and diversity** shall
 19 be staffed with no fewer than three full-time professional level civil service
 20 employees to manage complaints, inquiries, and outreach. The office of consumer
 21 advocacy **and diversity** shall be staffed with no fewer than two full-time journeyman
 22 level civil service employees to assist the professional level employees. The office
 23 of consumer advocacy **and diversity** shall employ an administrative assistant
 24 designated by the deputy commissioner who shall be responsible for coordinating
 25 and directing travel, scheduling, office management, and any other duties assigned
 26 by the deputy commissioner. The office of consumer advocacy **and diversity** shall
 27 be housed within the Louisiana Department of Insurance and, as funding is available,
 28 satellite offices may be opened as outlined in the rules and regulations to be
 29 implemented by the commissioner of insurance pursuant to this Section. The deputy
 30 commissioner for consumer advocacy **and diversity** shall be directly responsible to

1 and shall perform his functions under the supervision and control of the
 2 commissioner of insurance.

3 B.(1) The office of consumer advocacy **and diversity**, through the deputy
 4 commissioner of consumer advocacy **and diversity**, shall perform the following
 5 duties and functions concerning products or services regulated by the Department of
 6 Insurance:

7 * * *

8 (b) Prepare and disseminate such information as the ~~department~~
 9 **commissioner** deems appropriate to inform or assist consumers.

10 * * *

11 C. The deputy commissioner for consumer advocacy **and diversity** may be
 12 terminated without cause shown. A written report of termination shall be compiled
 13 by the commissioner of insurance and delivered to the clerk of the House of
 14 Representatives and the secretary of the Senate at least ten days before the
 15 termination and shall be disclosed to the members of the respective houses of the
 16 legislature upon request.

17 **D. The deputy commissioner for consumer advocacy and diversity shall**
 18 **be responsible for the functions of the division of diversity and opportunity**
 19 **within the department. There shall be an assistant commissioner of diversity**
 20 **and opportunity who shall be appointed by the commissioner. The assistant**
 21 **commissioner of diversity and opportunity shall serve at the pleasure of the**
 22 **commissioner and at a salary fixed by the commissioner, which salary shall not**
 23 **exceed the amount approved for the position by the legislature.**

24 **E.** The commissioner of insurance may adopt rules and regulations necessary
 25 to implement the provisions of this Section.

26 Section 3. R.S. 22:31(A)(6) and 32(C) and (D) and R.S. 36:696(B)(1)(e) are hereby
 27 repealed in their entirety.

28 Section 4. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____