

2021 Regular Session

HOUSE BILL NO. 179

BY REPRESENTATIVE FIRMENT

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

INSURANCE: Provides relative to the requirements for officers and directors of domestic regulated entities

1 AN ACT

2 To enact R.S. 22:41.3, relative to officers and directors of domestic regulated entities; to
3 provide definitions for certain terms; to provide for the requirements for officers and
4 directors; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:41.3 is hereby enacted to read as follows:

7 §41.3. Requirements for officers and directors of domestic regulated entities

8 A. For purposes of this Section, the following definitions apply:

9 (1) "Director" means a person designated in the articles of incorporation,
10 bylaws, or other organizational documents as a director or person designated,
11 elected, or appointed by any other name or title to act as director.

12 (2) "Domestic regulated entity" means any legal entity domiciled in this state
13 that is required to obtain a license or certificate of authority from or register with the
14 commissioner. "Domestic regulated entity" does not mean a motor vehicle rental
15 insurer, insurance agency, broker, managing general agent, producer, reinsurance
16 intermediary broker, claims adjuster, public adjuster, or insurance producer acting
17 as a viatical settlement broker pursuant to R.S. 22:1792(A)(1).

18 (3) "Officer" means a president, vice president, treasurer, actuary, secretary,
19 controller, or any other person who performs for the company functions
20 corresponding to those performed by the foregoing officers. "Officer" also means the

1 administrator of a plan of self-insurance providing health and accident or workers'
2 compensation coverage to employees of two or more employers or a risk
3 indemnification trust.

4 (4) "Trustee" means the trustee of a trust that provides health and accident
5 or workers' compensation coverage to employees of two or more employers or of a
6 risk indemnification trust.

7 B.(1) No person shall serve as an officer, director, or trustee of a domestic
8 regulated entity to whom either of the following applies:

9 (a) The person fails to submit to the commissioner the information required
10 by this Section.

11 (b) The commissioner refuses to issue or rescinds a letter of no objection
12 pursuant to Subsection D of this Section.

13 (2) A domestic regulated entity shall not retain as an officer, director, or
14 trustee any person to whom Paragraph (1) of this Subsection applies.

15 C.(1) An officer, director, or trustee of a domestic regulated entity shall,
16 within thirty days of election, appointment, or otherwise being chosen, submit to the
17 commissioner a request for a letter of no objection to serving in that capacity.

18 (2) Each request for a letter of no objection shall include all of the following:

19 (a) Such biographical and other information as the commissioner may
20 require to ensure that the competence, experience, and integrity of the person are
21 sufficient to protect the interests of the policyholders or members of the domestic
22 regulated entity or the public including but not limited to biographical affidavits,
23 third-party background verifications, and fingerprint submissions pursuant to R.S.
24 22:1922.

25 (b) A statement from the domestic regulated entity indicating the position
26 for which the person has been elected, appointed, or otherwise chosen.

27 (c) A sworn statement from the person confirming either of the following:

28 (i) The absence of any conflicts of interest upon assuming the position.

1 (ii) The disclosure in writing of any conflicts of interest to the domestic
2 regulated entity and the receipt in writing of its waiver by the domestic regulated
3 entity.

4 (d) A true copy of the acceptance of trust, oath of office, or other such
5 document signed by the person, which includes a sworn statement that the person
6 agrees to abide by and direct the activities of the domestic regulated entity in
7 compliance with applicable laws and regulations.

8 (3) The request shall be in a manner and form approved by the
9 commissioner.

10 D. The commissioner may refuse to issue or rescind a letter of no objection
11 if he finds any of the following:

12 (1) The competence, experience, or integrity of the person is not sufficiently
13 in the interest of policyholders or members of the domestic regulated entity or of the
14 public to allow the person to serve in the proposed position.

15 (2) The person has been the subject of any of the following involving any
16 felony or misdemeanor involving moral turpitude or public corruption or a felony
17 involving dishonesty or breach of trust:

18 (a) Conviction.

19 (b) Entry of a plea of guilty or nolo contendere.

20 (c) Participation in a pretrial diversion program.

21 (3) The person knowingly makes a materially false statement or omits
22 material information in the request for a letter of no objection.

23 (4) The person fails to provide information that the commissioner requires
24 to evaluate the person's competence, experience, and integrity.

25 E. The commissioner may waive the submission of a biographical affidavit,
26 third-party background verification, or fingerprint card when either of the following
27 occurs:

1 (1) The person is currently serving as an officer, director, or trustee of a
2 domestic regulated entity and has served in that capacity for a period of five
3 consecutive years.

4 (2) The person has received a letter of no objection from the commissioner
5 within one year of being elected, appointed, or otherwise chosen as an officer,
6 director, or trustee and attested that no material change has occurred in the
7 biographical and other information submitted in support of that request.

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 179 Engrossed

2021 Regular Session

Firmen

Abstract: Provides relative to the definitions of certain terms and the requirements for serving as a director, officer, or trustee of a domestic regulated entity

Proposed law defines "director", "domestic regulated entity", "officer", and "trustee" relative to the terms' use in proposed law.

Proposed law provides that a person serving as an officer, director, or trustee of a domestic regulated entity shall submit a request to the commissioner of insurance for a letter of no objection containing all of the following:

- (1) Biographical and other information as the commissioner may require to ensure sufficient competence, experience, and integrity to protect the interests of the policyholders or members of the domestic regulated entity and the public.
- (2) A statement from the domestic regulated entity indicating the position of which the person has been elected, appointed, or otherwise chosen.
- (3) A sworn statement from the person confirming the absence of any conflicts of interest upon assuming the position or the disclosure in writing of any conflicts of interest to the domestic regulated entity and the receipt in writing of their waiver by the domestic regulated entity.
- (4) A true copy of the acceptance of trust, oath of office, or other such document signed by the person, which includes a sworn statement that the person agrees to abide by and direct the activities of the domestic regulated entity in compliance with applicable laws and regulation.

Proposed law provides that the commissioner may refuse to issue or rescind a letter of no objection if he finds any of the following:

- (1) The competence, experience, or integrity of the person is not sufficiently in the interest of policyholders or members of the domestic regulated entity or of the public to allow the person to serve in the proposed position.

- (2) The person has been convicted, entered a plea of guilty or nolo contendere, or participated in a pretrial diversion program for a felony or misdemeanor involving moral turpitude or public corruption or a felony involving dishonesty or breach of trust.
- (3) The person knowingly makes a materially false statement or omits material information in his request for a letter of no objection.
- (4) The person fails to provide information that the commissioner requires to evaluate the person's competence, experience, and integrity.

Proposed law provides that the commissioner may waive the submission of a biographic affidavit, third-party background verification, and fingerprint card if either of the following occurs:

- (1) The person is currently serving as an officer, director, or trustee and has served in that capacity for five consecutive years.
- (2) The person has received a letter of no objection from the commissioner within one year of being elected or appointed and attested that no material change has occurred in the information submitted in support of that request.

(Adds R.S. 22:41.3)

Summary of Amendments Adopted by House

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

1. Make technical changes.