

Regular Session, 2012

HOUSE RESOLUTION NO. 113

BY REPRESENTATIVE CROMER

INSURANCE DEPARTMENT: Urges and requests the La. Dept. of Insurance to withhold enforcement of Advisory Letter No. 2010-01

1 A RESOLUTION

2 To urge and request the Louisiana Department of Insurance to withhold enforcement of  
3 Advisory Letter 2010-01.

4 WHEREAS, the Louisiana Department of Insurance issued Advisory Letter No.  
5 2010-01 on August 9, 2010; and

6 WHEREAS, Advisory Letter No. 2010-01 affects all insurers, brokers, and producers  
7 doing business in the state of Louisiana; and

8 WHEREAS, Advisory Letter No. 2010-01 is relative to insurance premiums that are  
9 quoted "net of commission"; and

10 WHEREAS, there is significant material disagreement among interested insurance  
11 producers, insurers, large employer groups, and local government entities relative to the  
12 validity and interpretation of the advisory letter and the implications it may have on the  
13 insurance industry in the state of Louisiana; and

14 WHEREAS, the effect of Advisory Letter No. 2010-01 will alter the existing  
15 business practices of interested parties; and

16 WHEREAS, the Patient Protection and Affordable Care Act was signed into law by  
17 the president of the United States on March 23, 2010; and

18 WHEREAS, the Patient Protection and Affordable Care Act mandates health insurers  
19 to meet certain standards relative to Medical Loss Ratios; and

20 WHEREAS, the calculation of Medical Loss Ratios is impacted by whether or not  
21 sales of insurance products may be sold "net of commission"; and

1           WHEREAS, the interpretation of Advisory Letter No. 2010-01 will directly affect  
2 whether or not insurance products may be sold "net of commission" in the state of Louisiana;  
3 and

4           WHEREAS, the conflicting interpretations of Advisory Letter No. 2010-01 may  
5 unreasonably complicate implementation of the provisions of the Patient Protection and  
6 Affordable Care Act relative to the determination of Medical Loss Ratios; and

7           WHEREAS, federal law preempts state law; and

8           WHEREAS, House Bills Nos. 869 and 1031 were filed in the 2012 Regular Session  
9 of the Legislature in an effort to quell the confusion and remedy the controversy surrounding  
10 Advisory Letter 2010-01; and

11           WHEREAS, the interested parties have been unable to reach an agreement, even in  
12 light of House Bills Nos. 869 and 1031 of the 2012 Regular Session of the Legislature; and

13           WHEREAS, all interested parties have agreed to meet and work together in good  
14 faith to compromise on legislation, relative to insurance premium quotes that are made "net  
15 of commission", to be filed in the 2013 Regular Session of the Legislature of Louisiana; and

16           WHEREAS, it is necessary that Advisory Letter 2010-01 is interpreted in such a way  
17 that is most beneficial to consumers; and

18           WHEREAS, it is integral to the future of the insurance industry in the state of  
19 Louisiana that Advisory Letter 2010-01 is interpreted in such a way that does not present an  
20 undue burden to interested parties; and

21           WHEREAS, a premature implementation of Advisory Letter 2010-01 could result  
22 in an interpretation which conflicts with the federal Patient Protection and Affordable Care  
23 Act; and

24           WHEREAS, such a conflict between state and federal law would be a violation of  
25 Article VI, Clause 2 of the United States Constitution; and

26           WHEREAS, it is important to ensure that state law is in conformity with the needs  
27 of the insurance industry and its consumers, as well as federal law; and

28           WHEREAS, it would serve the betterment of all interested parties, as well as  
29 Louisiana consumers, for the Louisiana Department of Insurance to withhold enforcement  
30 of Advisory Letter 2010-01 until such time as the interested parties have had time to reach

1 a compromise and the result of such compromise has been considered by the Louisiana  
2 House of Representatives and Senate, respectively.

3 THEREFORE, BE IT RESOLVED that the House of Representatives of the  
4 Legislature of Louisiana does hereby urge and request the Louisiana Department of  
5 Insurance to withhold enforcement of Advisory Letter No. 2010-01 until the final  
6 adjournment of the 2013 Regular Session of the Legislature of Louisiana.

7 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
8 commissioner of the Department of Insurance.

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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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Cromer

HR No. 113

Urges and requests the La. Dept. of Insurance to withhold enforcement of Advisory Letter No. 2010-01, relative to insurance premiums quoted "net of commission", until the final adjournment of the 2013 R.S.