

Regular Session, 2010

SENATE BILL NO. 133

BY SENATOR MORRELL

PROPERTY INSURANCE. Provides for actuarial opinions relative to property and casualty insurance companies. (08/15/10)

1 AN ACT
2 To amend and reenact R.S. 22:771 and R.S. 44:4.1(B)(10), relative to property and casualty
3 insurance companies; to provide with respect to the annual filing of actuarial
4 opinions; to provide for the filing of actuarial opinion summaries; to provide for the
5 filing of actuarial opinion reports and workpapers; to provide for the commissioners
6 authority to engage actuaries; to provide for liability with respect to actuarial
7 opinions; to provide for the confidentiality of certain documents; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:771 is hereby amended and reenacted to read as follows:

11 §771. **Statement of Actuarial actuarial opinion** ~~certification of loss and loss~~
12 ~~expense reserves~~

13 ~~The loss and loss expense reserves shall be accompanied by a statement of~~
14 ~~the opinion of an associate or fellow of the Casualty Actuarial Society or other~~
15 ~~qualified loss reserve specialist, setting forth his opinion relative to the~~
16 ~~reasonableness and sufficiency of loss and loss expense reserves.~~

17 **A. Every property and casualty insurance company doing business in**

1 this state, unless otherwise exempted by the domiciliary commissioner, shall
2 annually submit the opinion of a qualified actuary appointed by the company
3 entitled "statement of actuarial opinion." This opinion shall be filed in
4 accordance with the appropriate NAIC Property and Casualty Annual
5 Statement Instructions.

6 B.(1) Every property and casualty insurance company domiciled in this
7 state that is required to submit a statement of actuarial opinion shall annually
8 submit an actuarial opinion summary, written by the company's appointed
9 actuary. This actuarial opinion summary shall be filed in accordance with the
10 appropriate NAIC Property and Casualty Annual Statement Instructions and
11 shall be considered as a document supporting the actuarial opinion required in
12 Subsection A of this Section.

13 (2) A company licensed but not domiciled in this state shall provide the
14 actuarial opinion summary upon request.

15 C.(1) An actuarial report and underlying workpapers as required by the
16 appropriate NAIC Property and Casualty Annual Statement Instructions shall
17 be prepared to support each actuarial opinion.

18 (2) If the insurance company fails to provide a supporting actuarial
19 report or workpapers at the request of the commissioner or if the commissioner
20 determines that the supporting actuarial report or workpapers provided by the
21 insurance company is otherwise unacceptable to the commissioner, the
22 commissioner may engage a qualified actuary at the expense of the company to
23 review the opinion and the basis for the opinion and prepare the supporting
24 actuarial report or workpapers.

25 D. Except in cases of fraud or willful misconduct, the appointed actuary
26 shall not be liable for damages to any person, other than the insurance company
27 and the commissioner, for any act, error, omission, decision, or conduct with
28 respect to the actuary's opinion.

29 E. The statement of actuarial opinion shall be provided with the annual

1 statement in accordance with the appropriate NAIC Property and Casualty
2 Annual Statement Instructions and shall be treated as a public document.

3 F. All documents, materials or other information in the possession or
4 control of the commissioner that are considered an actuarial report,
5 workpapers or actuarial opinion summary provided in support of the opinion,
6 and any other material provided by the company to the commissioner in
7 connection with the actuarial report, workpapers or actuarial opinion
8 summary, shall be given confidential treatment and are not subject to subpoena
9 and may not be made public by the commissioner or any other person, except
10 that any access may be granted to the National Association of Insurance
11 Commissioners, insurance departments of other states, international, federal or
12 state law enforcement agencies or international, federal or state regulatory
13 agencies with statutory oversight over the financial services industry, if the
14 recipient agrees to maintain the confidentiality of those documents which are
15 confidential under the laws of this state. Nothing contained in this Subsection
16 shall be construed to limit the commissioner's authority to use any document,
17 material or other information in the furtherance of any legal or regulatory
18 action which the commissioner may, in his sole discretion, deem appropriate.

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

20 §4.1. Exceptions

21 * * *

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

27 * * *

28 (10) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 574, 618, 706, 732, 752, 771,
29 1203, 1460, 1466, 1546, 1644, 1656, 1723, 1929, 1983, 2036, 2303

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

Present law requires the loss and expense reserves of insurers to be accompanied by a statement of opinion of an associate or fellow of the Casualty Actuarial Society or other qualified loss reserve specialist, setting forth his opinion relative to the reasonableness and sufficiency of loss and loss expense reserves. Proposed law deletes this provision and requires every property and casualty insurance company doing business in the state, unless exempted by the domiciliary commissioner, to annually submit the opinion of a qualified actuary appointed by the company entitled "statement of actuarial opinion" which shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

Proposed law requires every property and casualty insurance company domiciled in the state that is required to submit a Statement of Actuarial Opinion to annually submit an actuarial opinion summary, written by the company's appointed actuary and filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions as a supporting document. Requires a company licensed but not domiciled in the state to provide the actuarial opinion summary upon request.

Proposed law requires an actuarial report and underlying workpapers to be prepared to support each actuarial opinion. Provides that if the insurance company fails to provide a supporting actuarial report or workpapers at the request of the commissioner or if the commissioner determines that the supporting actuarial report or workpapers is unacceptable, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or workpapers.

Proposed law prohibits the appointed actuary from being held liable for damages to any person, other than the insurance company and the commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion except in cases of fraud or willful misconduct.

Proposed law requires the statement of actuarial opinion to be provided with the annual statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document.

Proposed law requires all documents, materials or other information in the possession or control of the commissioner that are considered an actuarial report and any other material provided by the company in connection with the actuarial report, workpapers or actuarial opinion summary to be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any person. Permits access to be granted to the National Association of Insurance Commissioners, insurance departments of other states, international, federal or state law enforcement agencies or international, federal or state regulatory agencies with statutory oversight over the financial services industry if the recipient agrees to maintain the confidentiality of those documents.

Proposed law is included in the exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of the state.

Effective August 15, 2010.

(Amends R.S.22:771 and R.S. 44:4.1(B)(10))