

2016 Regular Session

SENATE BILL NO. 192

BY SENATOR JOHNS

INSURANCE DEPARTMENT. Provides for the confidential treatment of papers, documents, reports, or evidence related to an investigation by the division of insurance fraud within the Department of Insurance. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 22:1927, relative to the division of insurance fraud of the  
3 Department of Insurance; to provide for confidential treatment of the papers,  
4 documents, reports, or evidence relative to the subject of an insurance fraud  
5 investigation; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1927 is hereby amended and reenacted to read as follows:

8 §1927. Materials and evidence

9 A. If matter that the division seeks to obtain by request is located outside the  
10 state, the person so requested may make it available to the division or its  
11 representative to examine at the place where it is located. The division may designate  
12 representatives, including officials of the state in which the matter is located, to  
13 inspect the matter on its behalf, and it may respond to similar requests from officials  
14 of other states.

15 B. The division's papers, documents, reports, or evidence relative to the  
16 subject of an investigation under this Part ~~shall not be subject to public inspection~~  
17 ~~for so long as the commissioner deems reasonably necessary to complete the~~

1 investigation, to protect the person investigated from unwarranted injury, or to be in  
2 the public domain. Further, such papers, documents, reports, or evidence relative to  
3 the subject of investigation under this Section shall not be subject to subpoena until  
4 opened for public inspection by the commissioner, unless the commissioner  
5 consents, or until after notice to the commissioner and a hearing, a court of  
6 competent jurisdiction determines the division would not be necessarily hindered by  
7 such subpoena: **shall be given confidential and privileged treatment and are not**  
8 **subject to subpoena or discovery and may not be made public by the**  
9 **commissioner or any other person, except to the extent provided in Subsections**  
10 **C and D of this Section.**

11 **C. Nothing contained in this Part shall prevent, or be construed as**  
12 **prohibiting, the commissioner from disclosing the content of the papers,**  
13 **documents, reports, or evidence relative to the subject of an investigation under**  
14 **this Part, or any matter relating thereto, to the insurance department of this or**  
15 **any other state or country, or to law enforcement officials of this or any other**  
16 **state or agency of the federal government at any time, provided such agency or**  
17 **office receiving the report or matters relating thereto agrees, in writing, to hold**  
18 **it confidential and privileged and in a manner consistent with this Part.**

19 **D. Nothing contained in this Part shall be construed to limit the**  
20 **commissioner's authority to use papers, documents, reports, or evidence relative**  
21 **to the subject of an investigation under this Part, or any other information**  
22 **discovered or developed during the course of any investigation under this Part,**  
23 **in the furtherance of any legal or regulatory action which the commissioner**  
24 **may, in his sole discretion, deem appropriate. Such information, papers,**  
25 **reports, evidence or documentation shall be subject to a protective order to**  
26 **prevent disclosure and shall not be admissible as evidence in a civil or**  
27 **administrative action.**

28 **E. Division personnel shall not be subject to subpoena in civil or**  
29 **administrative actions by any court or agency of this state to testify concerning any**

1 matter of which they have knowledge pursuant to a ~~pending~~ **an** insurance fraud  
2 investigation.

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

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## DIGEST

SB 192 Engrossed

2016 Regular Session

Johns

Present law permits the division of fraud ("the division") to make requests for materials and evidence from a person outside the state. The person so requested may make it available to the division or its representative, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

Present law protects the division's papers, documents, reports, or evidence relative to the subject of an investigation from public inspection for so long as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public domain. Further provides that such papers, documents, reports, or evidence shall not be subject to subpoena until opened for public inspection by the commissioner, unless the commissioner consents, or until after notice to the commissioner and a hearing, a court of competent jurisdiction determines the division would not be necessarily hindered by the subpoena.

Proposed law requires the division's papers, documents, reports, or evidence relative to the subject of an investigation to be given confidential and privileged treatment and not to be subject to subpoena or discovery and may not be made public by the commissioner or any other person, except the commissioner may disclose the content of papers, documents, reports, or evidence to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government provided such agency or office receiving the reports or matters relating thereto agrees, in writing, to hold it confidential and privileged.

Proposed law prohibits limiting the commissioner's authority to use papers, documents, reports, or evidence relative to the subject of an investigation, or any other information discovered or developed during the course of any investigation in furtherance of any legal or regulatory action. Provides that such information, papers, reports, evidence or documentation shall be subject to a protective order to prevent disclosure and shall not be admissible as evidence in a civil or administrative action.

Effective August 1, 2016.

(Amends R.S. 22:1927)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Requires all papers, documents, reports, or evidence relative to the subject of an investigation to be given confidential and privileged treatment.
2. Provides that the information, papers, reports, evidence or documentation shall be subject to a protective order to prevent disclosure and shall not be admissible as evidence in a civil or administrative action.
3. Makes technical changes.