

ACT No. 711

Regular Session, 2004

SENATE BILL NO. 731

BY SENATORS CAIN AND CRAVINS

1 AN ACT

2 To enact Chapter 9 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 22:3201 through 3205, relative to automobile insurance fraud prevention; to
4 establish the Louisiana Automobile Theft and Insurance Fraud Prevention Authority
5 in the Department of Insurance; to provide for the authority’s duties, purposes, board
6 of directors, staff, plan of operations, and funding; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 9 of Title 22 of the Louisiana Revised Statutes of 1950, to be
9 comprised of R.S. 22:3201 through 3205, is hereby enacted to read as follows:

10 CHAPTER 9. LOUISIANA AUTOMOBILE THEFT AND
11 INSURANCE FRAUD PREVENTION AUTHORITY

12 **Chapter 9 is all new law.**

13 §3201. Definitions

14 **R.S. 22:3201 is all new law.**

15 As used in this Chapter:

16 (1) “Authority” means the Louisiana Automobile Theft and Insurance Fraud
17 Prevention Authority.

18 (2) “Board” means the board of directors of the Louisiana Automobile Theft
19 and Insurance Fraud Prevention Authority.

20 (3) “Fund” means the automobile insurance theft and fraud prevention fund
21 administered by the board of directors as a dedicated fund in the state treasury.

22 (4) “Motor vehicle” means every automobile or other motor vehicle which is
23 self-propelled, other than trains and those propelled by electric power from overhead
24 wires.

1 §3202. Authority; creation, powers

2 **R.S. 22:3202 is all new law.**

3 A. There is hereby created a public agency to be known as the Louisiana
4 Automobile Theft and Insurance Fraud Prevention Authority, the purpose of which
5 is to combat motor vehicle insurance fraud, including fraud by theft and other
6 criminal acts.

7 B. The purposes, powers and duties of the authority shall be vested in and
8 exercised by a board of directors.

9 C. The board of directors shall consist of the commissioner of insurance or
10 his designee, the state treasurer or his designee, a representative of the Louisiana
11 State Police Insurance Fraud unit, the chairman of the Senate Committee on
12 Insurance or his designee, the chairman of the House Committee on Insurance or his
13 designee, and six members to be appointed as follows: four members shall be
14 appointed by the commissioner, including two members representing purchasers of
15 motor vehicle insurance in this state and two members representing motor vehicle
16 insurers doing business in this state. Two members shall be appointed by the
17 attorney general, both of whom shall represent law enforcement officials in this state.
18 The commissioner shall serve as chairperson of the authority.

19 D. The members of the board of directors, except the commissioner of
20 insurance or his designee, the state treasurer or his designee, the representative of the
21 Louisiana State Police Insurance Fraud unit, and the legislative members serving on
22 the board, shall not be considered public employees by virtue of their service on the
23 board of directors.

24 E. Members of the board shall serve without compensation for their service
25 on the board, except that members of the board may receive reasonable
26 reimbursement for necessary travel and expenses.

27 F. A majority of the members of the board shall constitute a quorum for the
28 transaction of business at a meeting, or the exercise of a power or function of the
29 authority. Notwithstanding any other law to the contrary, any action may be taken

1 by the authority at a meeting upon a vote of the majority of the members present.

2 The authority shall meet at the call of the chairperson or as may be provided in the
3 bylaws of the authority. Meetings of the authority may be held anywhere within the
4 state, and shall be open public meetings.

5 G.(1) The authority shall be within the Department of Insurance.

6 (2) A director and assistant director shall be selected by the board and serve
7 at the pleasure of the commissioner of insurance, shall be considered public
8 employees, and shall operate the daily affairs of the authority as specified herein and
9 by the board.

10 (3) The attorney general or his designee shall serve as the authority's legal
11 counsel.

12 H. The authority shall be subject to the provisions of law regarding public
13 records (R.S. 44:1 et seq), open meetings (R.S. 42:4.2 et seq), and public bid (R.S.
14 38:2211 et seq).

15 §3203. Authority; further powers and duties

16 **R.S. 22:3203 is all new law.**

17 The authority shall have the powers necessary and convenient to implement
18 and effectuate the purposes and provisions of this Chapter and the purposes of the
19 authority and the powers delegated by other laws, including but not limited to the
20 power to:

21 (1) Sue and be sued; have perpetual succession; make, execute and deliver
22 contracts, conveyances, and other instruments necessary and convenient to the
23 exercise of its powers; and to make and amend its bylaws by a majority vote of the
24 board.

25 (2) Solicit and accept gifts, grants, donations, loans, and other assistance from
26 any person or entity, private or public, or the federal, state, or local governments or
27 any agency thereof, said gifts, grants, donations, loans, and other assistance to be
28 immediately deposited upon receipt into the fund described in R.S. 22:3204(A).

29 (3) Establish programs in conjunction with other state agencies, local

1 governing authorities, and law enforcement agencies for motor vehicle theft and
 2 insurance fraud prevention, detection and enforcement, which shall include the
 3 Attorney General's Criminal Division and Investigation Division.

4 (4) Make grants to other state agencies, local governing authorities, and law
 5 enforcement agencies for motor vehicle theft and insurance fraud prevention,
 6 detection and enforcement.

7 (5) Procure insurance against any loss in connection with its property, assets
 8 or activities.

9 (6) Deposit all monies received for the purposes of this Chapter into the
 10 Automobile Theft and Insurance Fraud Prevention Authority Fund, provided for in
 11 R.S. 22:3204.

12 (7) Contract for goods and services and engage personnel as is necessary,
 13 including the services of private consultants, auditors, and others for rendering
 14 professional services, as provided by law, payable out of any money of the fund
 15 legally available for such purpose. Additionally, the board may authorize the
 16 attorney general to contract for the services of ad hoc prosecutors or other legal
 17 assistance, payable out of any money of the fund legally available for such purpose.

18 (8) Indemnify and procure insurance indemnifying the members of the board
 19 from personal loss from liability resulting from an action or inaction of the board.

20 (9) Do all other things necessary and convenient to achieve the objectives and
 21 purposes of the authority of this Chapter.

22 §3204. Automobile Theft and Insurance Fraud Prevention Authority Fund

23 **R.S. 22:3204 is all new law.**

24 A. There is hereby established a fund in the state treasury to be known as the
 25 "Automobile Theft and Insurance Fraud Prevention Authority Fund," hereafter
 26 referred to as the "fund," into which the state treasurer shall each fiscal year deposit
 27 the revenues received from those sources provided for by this Chapter and other
 28 sources as provided for by law after those revenues have been deposited in the Bond
 29 Security and Redemption Fund. Out of the funds remaining in the Bond Security and

1 Redemption Fund after a sufficient amount is allocated from that fund to pay all
2 obligations secured by the full faith and credit of the state that become due and
3 payable within each fiscal year, the treasurer, prior to placing such funds in the state
4 general fund, shall pay into the fund an amount equal to the revenue generated from
5 collection from those sources provided for by this Chapter and other sources as
6 provided for by law. No expenditures shall be made from the fund unless first
7 appropriated by the legislature. The monies in the trust fund shall be invested by the
8 state treasurer in the same manner as monies in the state general fund. All interest
9 earned on money from the fund and invested by the state treasurer shall be credited
10 to the Automobile Theft and Insurance Fraud Prevention Authority Fund.

11 B. Any monies in the Automobile Theft and Insurance Fraud Prevention
12 Authority Fund shall be administered only by the director of the authority, upon a
13 majority vote of the board, in the following order of priority:

14 (1) To pay the costs of administration of the authority.

15 (2) To pay the costs of legal counsel.

16 (3) To achieve the purposes and objectives of this Chapter, which may
17 include but not be limited to the following:

18 (a) Providing financial support to state or local law enforcement agencies,
19 including but not limited to the office of attorney general, for motor vehicle theft and
20 insurance fraud prevention, detection and enforcement.

21 (b) Providing financial support to state or local law enforcement agencies,
22 including but not limited to the office of attorney general, for programs designed to
23 reduce the incidence of motor vehicle theft and insurance fraud.

24 (c) Providing financial support to state and local prosecutors, including but
25 not limited to the office of attorney general, for programs designed to reduce the
26 incidence of motor vehicle theft and insurance fraud.

27 (d) Conducting educational programs designed to inform motor vehicle
28 owners of methods of preventing motor vehicle theft and insurance fraud.

29 C. All monies in the Automobile Theft and Insurance Fraud Prevention

1 Authority Fund shall be used only to enhance fraud prevention efforts as determined
2 by the board.

3 §3205. Plan of operation

4 **R.S. 22:3205 is all new law.**

5 A. The authority shall develop and implement a plan of operation upon the
6 recommendations of the director no later than the first of January 2005.

7 B. The plan of operation shall include an assessment of the scope of the
8 problem of motor vehicle theft and insurance fraud, including a determination of
9 particular areas of the state where the problem is most severe, an analysis of various
10 methods of combating the problem of motor vehicle theft and insurance fraud, a plan
11 for providing financial support for efforts to combat motor vehicle theft and
12 insurance fraud, and an estimate of funds required to implement the plan.

13 C. The authority shall report annually on or before March first to the House
14 Committee on Insurance and the Senate Committee on Insurance on its activities in
15 the preceding year.

16 Section 2. This Act shall become effective August 15, 2004.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____