

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 318 By Senator Quinn

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

INSURANCE DEPARTMENT. Provides for changes to the Louisiana Life and Health Insurance Guaranty Association Law. (8/15/09)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Technical amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Present law provides for an association made up of certain life and health insurance companies, which acts as guarantor for policies sold by its members who become insolvent and are unable to pay claims. The association is known as the Louisiana Life and Health Association (hereinafter "LaHIGA").

Proposed law retains present law but provides that LaHIGA will only honor an obligation, as it relates to an insured of an insolvent insurance company, if the obligation arises under the express written terms of the policy or contract and not claims based upon marketing materials, side letters, riders, or documents that were issued without approval of the forms by the Dept. of Insurance nor obligations arising under misrepresentation regarding benefits or extra-contractual claims.

Proposed law provides that LaHIGA will only honor an obligation, as it relates to an insured of an insolvent company, if the obligation does not arise out of a claim for penalties or consequences or incidental damages nor if it arises from a claim associated with a policy or a contract for benefits under Medicare Part C coverage or Medicare Part D drug coverage.

Proposed law increases the maximum amount for which LaHIGA will guarantee a health insurance policy of a member insurance company from \$100,000 to \$500,000 in benefits.

Proposed law increases the maximum amount for which LaHIGA will guarantee an annuity of a member insurance company from \$100,000 to \$250,000 in present value of annuity benefits, not to exceed \$100,000 in net cash surrender and net cash withdrawals.

Proposed law increases from 10 to 11 the membership of the LaHIGA board of directors with the additional member being a consumer representative appointed by the commissioner subject to Senate confirmation and who is a resident of the state of Louisiana.

Proposed law provides that this consumer member of the board may not be an officer, director or employee of an insurance company or engaged in the business of insurance.

Present law provided the following as to the selection of certain board members:

- (1) Two members selected from recommendations by the American Council of Life Insurance Companies.
- (2) One member selected from recommendations by the Health Insurance Association of America.
- (3) One representative who is a member of the National Association of Life Companies.

Proposed law retains provisions but changes the names of the entities listed above as follows:

- (1) American Council of Life Insurance Companies changed to American Council of Life Insurers.
- (2) Health Insurance Association of America changed to America's Health Insurance Plans.
- (3) National Association of Life Companies changed to American Council of Life Insurers Forum 500.

Present law authorizes LaHIGA to intervene in cases to obtain monies that are owed to the defunct insurer to reimburse LaHIGA for claims paid.

Proposed law retains present law but requires that monies received by an insured from LaHIGA be reduced by the amount realized by that insured from monies obtained by the insured from a third party which owed money to the defunct insurance company.

Present law provides, when LaHIGA is sued, the law suit would be filed in whatever parish that venue would have been proper against the insolvent insurance company.

Proposed law requires that venue in a suit against LaHIGA be in East Baton Rouge Parish.

Present law provides that a member insurer may be assessed in an amount determined by the board, not to exceed \$150 per member insurer in any one calendar year to cover administrative costs and legal fees.

Proposed law increases the amount of the assessment from \$150 to \$300.

Proposed law provides with respect to insurers that become impaired or insolvent in different calendar years, then if two or more assessments are authorized in one calendar year, the average annual premiums for purposes of the aggregate assessment percentage limitation shall be equal and limited to the higher of the three-year average annual premiums applicable to the account.

Present law provides that any person who is an affiliate that controlled an insurer at the time of certain distributions were paid by the insurer, then that person is liable for the amount of distributions received. Provides that if two or more persons are liable with respect to the same distribution, then they are jointly and severally liable. Proposed law retains these provisions but provides that such person is solidarily liable for such distributions.

Present law provides that if a person is insolvent at the time a distribution is made, then all its affiliates that controlled it at the time of such distribution are jointly and severally liable for any resulting deficiency. Proposed law retains these provisions but provides that such affiliates are solidarily liable.

Present law authorizes LaHIGA to file suit if a member insurance company does not pay an assessment because the member believes that the amount is not owed.

Proposed law provides that if a member insurance company believes that the amount is not correct or is not owed, the member may pay-in-protest and challenge the assessment and, if the member company loses, may appeal to the commissioner of the Dept. of Insurance.

Proposed law provides that LaHIGA may forgo its right to rule on the challenged assessment and send the case directly to the commissioner for action on the case.

Proposed law requires that LaHIGA rule on an assessment case within 60 days following the payment of an assessment under protest by a member insurer, unless LaHIGA notifies the member insurer that additional time is required to resolve the issues raised by the protest.

Proposed law requires that LaHIGA will, within 30 days after the final decision has been made, to notify the protesting member insurer in writing of the final decision.

Proposed law provides that the protesting member insurer may appeal LaHIGA's final ruling within 60 days of receipt of notice of the final decision to the commissioner.

Proposed law provides that all proceedings, in which the insolvent insurer is a party in any court in this state, shall be stayed for 60 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by LaHIGA on any matters germane to its powers or duties.

Proposed law increases the period of the stay from 60 days to 180 days.

Effective August 15, 2009.

(Amends R.S. 22:2081, 2083 (B)(2)(d)(i), (C)(2)(b) and (c), and (D), 2084(8)(f) and (g), (intro para), R.S. 22:2086(A), 2086(A)(2), (3) and (6) and (D), 2087(G), (L), and (N)(5), 2088(C)(1), (D) and (E)(1), 2090(D), 2092(A), 2093(C) and (E)(3) and (5), 2097, and 2098(A); adds R.S. 22:2083(B)(2)(h) and (i), 2084(8)(h), 2087(M)(4) and (5), and (P), 2088(I) and (J) and 2089(C)(8) and (9)

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