

CONFERENCE COMMITTEE REPORT

HB 511

2023 Regular Session

Illg

June 8, 2023

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 511 by Representative Illg, recommend the following concerning the Engrossed bill:

1. That the set of Senate Floor Amendments by Senator Luneau (#2897) be rejected.
2. That the following amendments to the Engrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete lines 4 and 5 in their entirety and insert in lieu thereof the following:

"(1)(b)(iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B)(introductory paragraph) and (6)(a), and 2061.1(A) and (D), to enact R.S. 22:2056(C)(2)(g)"

AMENDMENT NO. 2

On page 1, line 7, delete "provide to for" and insert "provide for"

AMENDMENT NO. 3

On page 1, line 10, delete, "to provide for confidentiality;" and insert in lieu thereof "to provide for a maximum assessment percentage;"

AMENDMENT NO. 4

On page 1, delete lines 17 and 18 in their entirety and insert in lieu thereof the following:

"(1)(b)(iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B)(introductory paragraph) and (6)(a), and 2061.1(A) and (D) are hereby amended and reenacted and R.S."

AMENDMENT NO. 5

On page 2, line 16, after "R.S. 44:1 through" delete the remainder of the line and insert in lieu thereof "~~41~~ 42 shall not"

AMENDMENT NO. 6

On page 4, between lines 3 and 4, insert the following:

"(iv) Up to one-half of the ~~The~~ amount of the maximum assessment shall be offset in the same manner that an offset is provided against the premium tax liability in Item (3)(b)(ii) of this Subsection, against the assessment levied by R.S. 22:1476, if such offset shall not be applied against any portion of the assessments to be deposited to the credit of the Municipal Police Employees' Retirement System, the Sheriffs' Pension and Relief Fund, and the Firefighters' Retirement System. To qualify for this offset, the payer shall file a sworn statement with the annual report

required by R.S. 22:791 et seq., 821 et seq., and 831 et seq., showing as of December thirty-first of the reporting period that at least the following amounts of the total admitted assets of the payer, less assets in an amount equal to the reserves on its policies issued in foreign countries in which it is authorized to do business and which countries require an investment therein as a condition of doing business, are invested and maintained in qualifying Louisiana investments as defined in R.S. 22:832(C). If one-sixth of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be sixty-six and two-thirds percent of the amount otherwise assessed; if at least one-fifth of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be seventy-five percent of the amount otherwise assessed; if at least one-fourth of the total admitted assets of the payer are in qualifying Louisiana investments, the offset shall be eighty-five percent of the amount otherwise assessed; and if at least one-third of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be ninety-five percent of the amount otherwise assessed. ~~If the total of the net premium tax liability and the assessment for the expenses of the Department of Insurance paid for the previous year was less than the offset allowed under Item (3)(b)(ii) of this Subsection for the previous year, the member company may reduce its assessment payment to the Louisiana Insurance Guaranty Association for the current year by that difference.~~

* * *

(b)(i) Issue to each insurer paying an assessment under this Part a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid up to but not exceeding one-half of the maximum assessment. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

(ii) A certificate of contribution issued to a member company may be offset against its premium tax liability in an amount not to exceed ten percent of the assessment for the year in which the assessment was paid in full and not to exceed ten percent of the assessment per year for each of the nine calendar years following the year in which ~~such the~~ assessment was paid in full, not to exceed a total offset of one hundred percent for each assessment. During the calendar year of issuance of a certificate of contribution, and yearly thereafter, a member shall at its option have the right to show a certificate of contribution as an asset in the form approved by the commissioner at percentages of the original face amount approved by the commissioner, equal to the unused offset as of each such calendar year.

(iii) To the extent amounts have not been written off offset under Item (ii) of this Subparagraph, the provisions of R.S. 22:2066 shall ~~not~~ apply. The commissioner may promulgate a separate form in accordance with the Administrative Procedure Act, to facilitate submission of a filing to recover the amounts not offset pursuant to Item (ii) of this Subparagraph, subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs."

AMENDMENT NO. 7

On page 5, delete lines 6 through 9 in their entirety

AMENDMENT NO. 8

On page 6, delete lines 2 through 29 in their entirety

AMENDMENT NO. 9

On page 7, delete lines 1 through 5 in their entirety

AMENDMENT NO. 10

On page 7, delete lines 15 through 18 in their entirety and insert in lieu thereof the following:

"Section 3. R.S. 22:2058(A)(3)(a)(ii) as amended by this Act that provides a two percent maximum assessment by the La. Insurance Guaranty Association shall be applied prospectively and shall become effective on January 1, 2024."

Respectfully submitted,

Representative John R. Illg, Jr.

Senator Talbot

Representative Mike Huval

Senator Luneau

Representative Lawrence "Larry" Frieman

Senator Fesi

CONFERENCE COMMITTEE REPORT DIGEST

HB 511

2023 Regular Session

Illg

Keyword and oneliner of the instrument as it left the House

INSURANCE: Provides relative to the Louisiana Insurance Guaranty Association

Report rejects Senate amendments which would have:

1. Deleted provisions of the Engrossed bill.

Report amends the bill to:

1. Restore provisions of the Engrossed bill deleted by Senate amendments.
2. Require up to one-half of the amount of the 2% maximum assessment of the La. Insurance Guaranty Association provided for in proposed law to be offset in the same manner that an offset is provided against the premium tax liability in present law.
3. Delete present law that authorized a member company to reduce its assessment payment to the La. Insurance Guaranty Association for the current year by that difference, if the total of the net premium tax liability and assessment for the expenses of the Dept. of Insurance paid for the previous year was less than the offset allowed in present law for the previous year.
4. Add to present law that the certificate of contribution issued to each insurer paying an assessment is for the amount paid up to but not exceeding one-half of the 2% maximum assessment.
5. Authorize the commissioner of insurance to promulgate and adopt a separate form to facilitate submission of a member insurer's filing to recover the amounts not offset in present and proposed law, subject to oversight of the appropriate legislative committees.
6. Delete proposed law that would have absolved the La. Insurance Guaranty Association from paying claims or providing a defense to any claims asserted for coverage under a policy when the insured is a high net worth insured, regardless of whether the claim is asserted against the high net worth insured.
7. Require the 2% maximum assessment by the La. Insurance Guaranty Association as provided for in proposed law to be applied prospectively and to become effective on Jan. 1, 2024.
8. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law provides that the La. Insurance Guaranty Association (LIGA) serves a function to ensure the payment of covered claims to claimants or policyholders under certain insurance policies and ensures minimum delay and a minimum financial loss due to the insolvency of an insurer. Further provides for policies and regulations for insolvent insurers.

Proposed law retains present law.

Present law defines "covered claim" and excludes penalties and punitive and exemplary damages from the definition of "covered claim".

Proposed law retains present law but further excludes certain present law penalties from the definition.

Present law authorizes LIGA to host executive sessions and limits the subject matter that may be discussed, debated, considered, or scrutinized during executive sessions, including but not limited to matters with respect to claims, claim files, and prospective litigation.

Proposed law retains present law but broadens the subject matter for discussion to include matters with respect to groups of similar claims and matters with respect to the discussion of litigation strategy or settlement issues.

Present law sets forth specific documents that are not subject to discovery, subpoena, or any other alternative form of disclosure in accordance with the Public Records Law (R.S. 44:1 et seq.).

Proposed law makes technical changes and retains present law.

Proposed law provides that a document or information protected from disclosure in present law, and protected information of a high net worth insured, are not subject to discovery, subpoena, or other disclosure, unless both parties are compelled by a valid and final court order issued in a proceeding to which both parties had notice and opportunity to object to the disclosure of the document or information.

Present law requires LIGA to establish reasonable procedures for requesting financial information from insureds on a confidential basis, subject to approval by the commissioner of insurance (commissioner).

Proposed law retains present law.

Present law authorizes LIGA to satisfy an obligation to a claimant by paying an amount exceeding \$100 but less than \$500,000 per claim, subject to a maximum limit of \$500,000 per accident or occurrence for all other covered claims.

Proposed law retains present law but clarifies the minimum amount as \$101 and the maximum amount as \$500,000 per accident or occurrence for all other covered claims.

Present law authorizes LIGA to assess 1% of a member insurer's net direct written premiums for the preceding calendar year. Proposed law increases the assessment authority from 1% to 2%. Otherwise retains present law.

Proposed law requires up to one-half of the amount of the 2% maximum assessment to be offset in the same manner that an offset is provided against the premium tax liability in present law.

If the total of the net premium tax liability and assessment for the expenses of the Dept. of Insurance paid for the previous year was less than the offset allowed in present law for the previous year, present law authorizes a member company to reduce its assessment payment to LIGA for the current year by that difference.

Proposed law deletes present law.

Present law provides that the certificate of contribution issued to each insurer paying an assessment is for the amount paid.

Proposed law adds that the certificate of contribution issued is up to but not exceeding one-half of the 2% maximum assessment. Otherwise retains present law.

Proposed law authorizes the commissioner to promulgate and adopt a separate form to facilitate submission of a member insurer's filing to recover the amounts not offset in present and proposed law, subject to oversight of the appropriate legislative committees.

Present law prohibits LIGA from including in certain assessments the premium dollars paid to an insurer by any high net worth insured. Proposed law deletes present law.

Proposed law requires any insurer authorized to deduct premium dollars from its assessment to submit to LIGA a net worth affidavit from each insured whose premium dollars are being deducted along with a statement of the amount of premium dollars paid by the insured.

Present law requires any amount payable by an insolvent insurer on a covered claim to be reduced by the full applicable limits stated in another insurance policy or by the amount of recovery under the other policy. Generally requires LIGA and the claimant to receive a full credit for the stated limits, unless the claimant demonstrates that he used reasonable efforts to exhaust all coverage and limits applicable to the other policy. Further provides that present law does not apply to uninsured or underinsured motorists.

Proposed law retains present law but repeals the portion that excludes uninsured or underinsured motorists from the application of present law.

Proposed law authorizes LIGA to conduct confidential discovery to determine whether credits exist to extinguish its defense obligation during the pendency of litigation. Further authorizes LIGA to conduct confidential discovery to determine whether other available insurance exists, the applicable limits thereof, the amount of a claimant's recovery, the efforts to exhaust any applicable limits, and whether LIGA's obligations to the claimant have been extinguished by any applicable credits during the pendency of litigation.

Proposed law requires the 2% maximum assessment by LIGA as provided for in proposed law to be applied prospectively and to become effective on Jan. 1, 2024.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S.22:2055(6)(b)(intro. para.) and (i), 2056(C)(2)(intro. para.), (c) and (d), 2058(A)(intro. para.), (1)(b)(iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B)(intro. para.) and (6)(a), and 2061.1(A) and (D); Adds R.S. 22:2056(C)(2)(g) and 2062(E); Repeals R.S. 22:2062(A)(2)(c))