

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

**INSURANCE/PROPERTY.** Creates the Louisiana Citizens Property Insurance Corporation to operate and manage the FAIR and coastal plans.

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DIGEST

Proposed law creates the Louisiana Citizens Property Insurance Corporation, a nonprofit entity, to operate and manage the FAIR and coastal plans for the purpose of providing access to adequate property insurance for designated areas of the state, including the coastal areas.

Proposed law provides that the assets of the Louisiana Citizens Property Insurance Corporation may not be considered as part of the general fund of the state and the state may not provide general funds to the corporation. The corporation is prohibited from making political contributions. Prohibits compensated employees from engaging in political activities.

Proposed law exempts the corporation from the necessity of a certificate of authority from the commissioner of insurance.

Proposed law provides that the corporation and the plans are subject to the statutory provisions on open meetings (R.S. 42:4.1 through 13) and public records (R.S. 44:1 through 4) as if it were a public body, except the following:

- (1) Underwriting files.
- (2) Claims files until termination of litigation.
- (3) Audit records until the audit is complete.
- (4) Matters subject to attorney-client privilege.
- (5) Proprietary information licensed to the corporation.
- (6) Medical records of employees.
- (7) Employee records of participation in behavior disorder assistance program.
- (8) Information on financial negotiations.
- (9) Minutes of closed meetings on underwriting files.

Proposed law prohibits disclosure to voluntary insurers the plans' insureds or applicants.

Proposed law provides for a 15-member board of directors who shall be representative of the state's regulation as much as practicable, comprised as follows:

- (1) Commissioner of insurance, or an employee of the department as his designee.
- (2) The state treasurer, or his employee designee.
- (3) The chair of the House Committee on Insurance, or a designated member.
- (4) The chair of the Senate Committee on Insurance, or a designated member.
- (5) Five representatives appointed by the governor, two of which shall be individuals who represent property and casualty insurance companies licensed by the department of insurance and writing property insurance in this state, and the remaining three representatives shall be appointed at large.
- (6) One member appointed by the commissioner from a list of three nominees from the Professional Insurance Agents of Louisiana, or its successor.
- (7) One member appointed by the commissioner from a list of three nominees from the Independent Insurance Agents of Louisiana, or its successor.
- (8) One member appointed by the governor from a list of three nominees from the National Association of Independent Insurers, or its successor.
- (9) One member appointed by the governor from a list of three nominees from the American Insurance Association, or its successor.
- (10) One member appointed by the governor from a list of three nominees from the Alliance of American Insurers, or its successor.
- (11) One member appointed by the governor from a list of two nominees submitted by the insurer writing the largest volume of business in the state.

Proposed law provides that members of the board may be reimbursed for necessary travel and actual expenses for attending meetings and while on board business.

Proposed law re-creates and continues the FAIR and coastal plans as of January 1, 2004, to be operated and managed by the Louisiana Citizens Property Insurance Corporation.

Proposed law requires all insurers authorized to write property insurance on a direct basis to participate in the coastal and FAIR plans so long as the plans exist.

Proposed law provides that the corporation and its governing board and staff shall not be liable for any inspections made, statements made in reports, or communication concerning risk that are made in good faith in connection with the provision of proposed law.

Proposed law prohibits the corporation from offering automobile insurance.

Proposed law provides for the powers and duties of the corporation including the power to:

- (1) Cause insurance policies to be issued.
- (2) Assume reinsurance from participants.
- (3) Purchase reinsurance on risks.
- (4) Borrow funds.
- (5) Sue or be sued.
- (6) Negotiate and become a party to contracts.

Proposed law requires the corporation to:

- (1) Maintain separate accounts for the FAIR and coastal plans.
- (2) Retain profits or excess revenues.
- (3) Develop a reinsurance plan.
- (4) Take actions to maintain a tax-free status.
- (5) Provides for the dissolution of the corporation upon the depopulation of the plans.

Proposed law provides that the plan of operation and any amendments are subject to approval by the legislative committees on insurance. The plan of operation may include the assessment procedure, management of the corporation, procedures for assessment for the FAIR and coastal plans, procedures for determining amounts of insurance for risks, and procedure for processing applicants.

Proposed law prohibits the governing board from amending the plan of operation to expand the declaration of purpose of the lines of business.

Proposed law requires assessable insurance companies to participate in assessments of the coastal plan in proportion to the net direct premium of the participant written during the preceding calendar year as it bears to the total aggregate premiums written by all assessable insurers, as certified by the governing board of the corporation.

Proposed law provides that the governing board adopt a credit schedule for essential property insurance voluntarily written in the coastal areas. Participation by assessable insurers may be reduced in accordance with the credit schedule.

Proposed law requires assessable insurance companies to participate in assessments of the FAIR Plan in proportion to the net direct premium of the participant written during the preceding calendar year as it bears to the total aggregate premiums written by all assessable insurers, as certified by governing board of the corporation.

Proposed law provides that governing board adopt a credit schedule for

essential property insurance voluntarily written in the designated areas under the FAIR plan. Participation by assessable insurers may be reduced in accordance with the credit schedule.

Proposed law provides for emergency assessments levied on assessable insurers. Provides for the remittance of the assessments. They are not considered to be premiums.

Proposed law provides for procedures for recoupment by assessable insurers of regular assessments by applying a surcharge on all policies issued for subject lines of business.

Proposed law provides that persons having an insurable interest in insurable property may apply to the corporation for coverage under the FAIR and coastal plans. Any policy issued may have a term up to one year.

Proposed law allows an applicant who has been refused insurance by the corporation to appeal that decision to the Louisiana Insurance Rating Commission.

Proposed law provides that rates for policies under the FAIR and coastal plans are not intended to be competitive and the rates are set by the corporation, adjusted annually, and shall be actuarially justified. The rates must be at least 10% above the average rates charged by the insurer with the highest average rate.

Proposed law provides that an additional amount equal to the premium tax is collected and retained by the corporation as the contribution by the state for the public purpose set out by proposed law.

Proposed law requires approval of rates by the Insurance Rating Commission prior to use.

Proposed law provides that reports of inspections by the corporation are available to the insurers participating in the FAIR and coastal plans and to the applicant.

Proposed law requires annual and quarterly reports by the corporation to the Louisiana Insurance Rating Commission. Requires the filing of annual and quarterly statements as required for authorized insurers.

Proposed law authorizes the commissioner of insurance to examine the corporation and the FAIR and coastal plans.

Proposed law authorizes the corporation to assess insurers participating in the FAIR and coastal plans to remedy any deficit in the plans. When the deficit is 10% or less, the deficit is to be recovered through the regular assessment.

Proposed law provides that when the deficit is greater than 10%, the first 10% of the deficit is recoverable through regular assessments over two years. The excess deficit over 10% is to be recovered through an emergency assessment.

Proposed law provides that emergency assessments to cover excess deficits may be over as many years as is necessary as determined by the corporation. It is to be collected by the assessable insured upon the issuance or renewal of their policies except National Flood Insurance policies.

Proposed law provides that the aggregate amount of the emergency assessment may not exceed the greater of 10% of the original deficit or 10% of the aggregate statewide direct premium.

Proposed law provides that policies subject to emergency assessments are also subject to a market equalization charge which is a uniform percentage of premium. It is not considered to be a premium. The insurance company must notify the commission at least 30 days in advance of the commencement of the charge.

Proposed law requires the corporation to file with the Louisiana Insurance Rating Commission and the office of property and casualty an annual audited statement.

Proposed law requires the commissioner of insurance to make examinations of the corporation and the plans. Provides that the corporation and the plans are subject to examination by the legislative auditor.

Proposed law authorizes the corporation to pledge the assessments, insurance recoverables, surcharges, and other funds as a source of revenue to secure bonds and other indebtedness or lines of credit.

Proposed law provides that the purpose of the financing mechanisms is to provide additional resources for the corporation to cover claims and expenses attributable to a catastrophe.

Proposed law requires the office of property and casualty to determine annually the aggregate statewide written premium and to report that to the corporation.

Proposed law requires bonds, other indebtedness, lines of credit, and other financing to be approved by the Louisiana State Bond Commission.

Proposed law prohibits construing proposed law to use the full faith and credit of the state to secure the bonds. Requires offering documents to state it is not secured by the full faith and credit of the state.

Proposed law provides that the revenue received by the corporation is not considered to be taxes, fees, licenses, or charges by the legislature. and that any bonds issued by the corporation and the income therefrom is tax free.

Proposed law authorizes the Louisiana State Law Institute to redesignate certain provisions of present law.

(Adds R.S. 22:1430-1430.17; repeals R.S. 22:1406.1-1406.13 and 1431-1445)

#### Summary of Amendments Adopted by House

##### Committee Amendments Proposed by House Committee on Insurance to the original bill.

1. Deletes provision providing that proposed law is to be liberally construed.
2. Changes the definition of "subject lines of business".

3. Provides that members of the board may be reimbursed for necessary travel and actual expenses.
4. Requires the filing of annual audited statements.
5. Allows examination by the legislative auditor.
6. Requires bonds to be approved by the Louisiana State Bond Commission.
7. Prohibits construing the proposed law to use the full faith and credit of the state to secure the bonds.
8. Requires offering documents to state it is not secured by the full faith and credit of the state.

House Floor Amendments to the engrossed bill.

1. Adds legislative intent to depopulate the residual market.
2. Prohibits political contributions.
3. Prohibits compensated employees from engaging in political activities.
4. Prohibits disclosure to voluntary insurers the plans' insureds or applicants.
5. Prohibits the corporation from offering automobile insurance.
6. Provides for the dissolution of the corporation upon the depopulation of the plans.
7. Prohibits the governing board and the Insurance Rating Commission from amending the plan of operation to expand the declaration of purpose of the lines of business.
8. Requires approval of rates by the Insurance Rating Commission prior to use.
9. Requires the filing of annual and quarterly statements as required for authorized insurers.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill.

1. Requires the plan of operation be approved by the Louisiana Senate Committee on Insurance and the Louisiana House Committee on Insurance, instead of the Louisiana Insurance Rating Commission.
2. Requires that members of the board of directors be representative of the state's population as near as practicable.

3. Changes the makeup of the board of directors.
4. Requires the plan of operation include procedures for the development of Requests For Proposals.
5. Deletes provision allowing the amendment of the plan of operation by the Louisiana Insurance Rating Commission.