

2015 Regular Session

HOUSE BILL NO. 511

BY REPRESENTATIVE SEABAUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE COMMISSIONER: Provides for appointment of counsel in matters related to rehabilitation, liquidation, or conservation of insurers, and for the distribution of receivership assets by the commissioner of insurance

1 AN ACT

2 To amend and reenact R.S. 22:2018 and 2034(G), relative to insurance receiverships; to  
3 provide for the appointment of counsel in matters related to rehabilitation,  
4 liquidation, or conservation of insurers; to provide for the distribution of assets by  
5 the commissioner subject to approval of the court; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:2018 and 2034(G) are hereby amended and reenacted to read as  
8 follows:

9 §2018. Appointment of assistants

10 A. For the purpose of this Chapter, and in connection with proceedings  
11 involving only domestic insurers, the commissioner of insurance shall have the  
12 power to appoint one or more special deputies as his agent or agents and to employ  
13 such clerks, attorneys, or assistants he deems necessary, and to give each of such  
14 persons such powers to assist him as he may consider wise. The compensation of  
15 every such special deputy, agent, clerk, attorney, or assistant shall be fixed, and all  
16 expenses of taking possession of the property of the insurer and the administration  
17 thereof shall be approved; by the commissioner of insurance, all subject to the  
18 approval of the court, and shall be paid out of the funds or assets of the insurer.

19 ~~B. The attorney general shall provide representation for the commissioner~~  
20 ~~of insurance in all matters covered pursuant to this Chapter. The attorney general~~

1       ~~may, if he deems it appropriate, appoint special counsel to provide this~~  
2       ~~representation. The attorney general shall submit his certification of expenses and~~  
3       ~~legal fees, both for staff and counsel, to the court for approval. Upon approval by~~  
4       ~~the court, these amounts shall be paid out of the funds or assets of the insurer.~~

5               ~~C. Attorneys employed by the attorney general for purposes of this Section~~  
6       ~~shall be named by the commissioner of insurance, with the approval of the attorney~~  
7       ~~general, and shall perform their duties under the supervision of the attorney general.~~

8               B. The commissioner of insurance may employ staff counsel of the  
9       Department of Insurance or special counsel to provide representation in all matters  
10       covered pursuant to this Chapter. The fees and expenses of staff or special counsel  
11       employed pursuant to this Subsection may be reimbursed pursuant to Subsection A  
12       of this Section.

13                               \*       \*       \*

14       §2034. Distribution of assets; priorities; unpaid dividends

15                               \*       \*       \*

16               G. If subsequent to an adjudication of insolvency, pursuant to R.S. 22:2027,  
17       a surplus is found to exist after the payment in full of all allowed claims which have  
18       been duly filed prior to the last date fixed for the filing thereof and the setting aside  
19       of a reserve for all costs and expenses of the proceeding, the court shall set a new  
20       date for the filing of claims. After the expiration of such new date, the solvency of  
21       such insurer shall be reexamined and if such insurer is then found to be solvent on  
22       the basis of all claims then filed and allowed, any surplus existing shall be distributed  
23       by the commissioner of insurance subject to approval by the court, which shall not  
24       unreasonably withhold such approval.

25                               \*       \*       \*

26       Section 2. The provisions of Section 1 of this Act shall have retroactive application  
27       to all pending receivership proceedings.

28       Section 3. This Act shall become effective upon signature by the governor or, if not  
29       signed by the governor, upon expiration of the time for bills to become law without signature

- 1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 3 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 511 Engrossed

2015 Regular Session

Seabaugh

**Abstract:** Provides for the appointment of counsel in the rehabilitation, liquidation, or conservation of insurers, and for the distribution of surplus receivership assets by the commissioner of insurance.

Present law provides that in connection with matters involving rehabilitation, liquidation, or conservation of domestic insurers in receivership, the commissioner of insurance (commissioner) has the power to appoint special deputies, clerks, or assistants. The compensation of such individuals is fixed. Associated expenses are required to be approved by the commissioner and the court and are to be paid out of the funds or assets of the insurer.

Proposed law adds attorneys to the list of individuals the commissioner can appoint.

Present law provides for representation of the commissioner by the attorney general. Further provides that the attorney general can appoint special counsel to provide this representation. The attorney general is required to submit a certification of expenses and legal fees for staff and counsel. Such fees and expenses are to be paid out of the funds or assets of the insurer. Proposed law repeals present law.

Present law provides that attorneys employed by the attorney general are to be named by the commissioner with approval of the attorney general and perform their duties under the supervision of the attorney general. Proposed law repeals present law.

Proposed law provides that the commissioner may employ staff counsel of the Dept. of Insurance or special counsel to provide representation. The fees and expenses of staff or special counsel may be reimbursed upon approval by the commissioner and the court and paid from the funds or assets of the insurer.

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

(Amends R.S. 22:2018 and 2034(G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Clarify that the commissioner of insurance has the power to employ attorneys to assist him in matters related to the rehabilitation, liquidation, or conservation of insurers.
2. Remove proposed limitation on the commissioner's authority to appoint special counsel in matters related to rehabilitation, liquidation, or conservation of

insurers to matters in which the assets of the insurer's estate are less than \$1 million.

3. Allow reimbursement of the fees and expenses of special counsel appointed by the commissioner to assist in matters related to rehabilitation, liquidation, or conservation of insurers.
4. Remove requirement that the attorney general represent the commissioner in matters covered in present law.
5. Remove authority for the attorney general to appoint special counsel or to provide for his expenses.