2015 Regular Session

## **ACT No. 340**

HOUSE BILL NO. 511

## BY REPRESENTATIVE SEABAUGH

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
21	may, if he deems it appropriate, appoint special counsel to provide this
22	representation. The attorney general shall submit his certification of expenses and

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1	legal fees, both for staff and counsel, to the court for approval. Upon approval by
2	the court, these amounts shall be paid out of the funds or assets of the insurer.
3	C. Attorneys employed by the attorney general for purposes of this Section
4	shall be named by the commissioner of insurance, with the approval of the attorney
5	general, and shall perform their duties under the supervision of the attorney general.
6	B. The commissioner of insurance may employ staff counsel of the
7	Department of Insurance or special counsel to provide representation in all matters
8	covered pursuant to this Chapter in which the assets of an insurer's estate are less
9	than one million dollars. The fees and expenses of staff or special counsel employed
10	pursuant to this Subsection may be reimbursed pursuant to Subsection A of this
11	Section.
12	C. The attorney general shall provide representation for the commissioner
13	of insurance in all matters covered pursuant to this Chapter in which the assets of an
14	insurer's estate equal or exceed one million dollars. The attorney general may
15	appoint special counsel to provide this representation. The attorney general shall
16	submit to the receivership court a certification of expenses and legal fees for staff
17	and special counsel for reimbursement pursuant to Subsection A of this Section.
18	D. The commissioner of insurance shall name and select the special counsel
19	employed pursuant to this Section subject to the approval of the attorney general,
20	who shall not unreasonably withhold such approval.
21	* * *
22	§2034. Distribution of assets; priorities; unpaid dividends
23	* * *
24	G. If subsequent to an adjudication of insolvency, pursuant to R.S. 22:2027,
25	a surplus is found to exist after the payment in full of all allowed claims which have
26	been duly filed prior to the last date fixed for the filing thereof and the setting aside
27	of a reserve for all costs and expenses of the proceeding, the court shall set a new
28	date for the filing of claims. After the expiration of such new date, the solvency of
29	such insurer shall be reexamined and if such insurer is then found to be solvent on
30	the basis of all claims then filed and allowed, any surplus existing shall be distributed

1 by the commissioner of insurance subject to approval by the court, which shall not 2 unreasonably withhold such approval. 3 4 Section 2. The provisions of Section 1 of this Act shall have retroactive application 5 to all pending receivership proceedings. Section 3. This Act shall become effective upon signature by the governor or, if not 6 7 signed by the governor, upon expiration of the time for bills to become law without signature 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become 10 effective on the day following such approval. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

**ENROLLED** 

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APPROVED: \_\_\_\_\_