

2021 Regular Session

SENATE BILL NO. 41

BY SENATOR BERNARD

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

INSURERS. Provides with respect to the repeal of insurance company deposit requirements.

1 AN ACT

2 To amend and reenact R.S. 22:801 and 802 and to repeal R.S. 22:145, 171, 254(A), (B), (D),

3 (E), and (F), 257(A)(9), 332(A)(13), 333(B) and (C), 341(C), 804, 807, and 808,

4 relative to deposits by insurers; to provide for authority to receive and hold insurer

5 deposits; to provide for release of funds deposited under certain conditions; to

6 provide for the terms and conditions of making and maintaining deposits; to provide

7 for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:801 and 802 are hereby amended and reenacted to read as

10 follows:

11 §801. ~~General deposit; foreign and alien insurer~~ **Commissioner authorized to hold**

12 **deposits**

13 ~~All foreign or alien insurers doing business in this state shall, subject to the~~

14 ~~exceptions contained in R.S. 22:804, deposit with the commissioner of insurance a~~

15 ~~safekeeping or trust receipt from a bank doing business within the state or from a~~

16 ~~savings and loan association chartered to do business in this state indicating that one~~

17 ~~hundred thousand dollars in money or in approved bonds of the United States, the~~

1 ~~state of Louisiana, or any political subdivision thereof, of the market value of not~~  
2 ~~less than one hundred thousand dollars has been made. Such approval shall be made~~  
3 ~~by the commissioner of insurance.~~ **A. If a deposit in this state is required by**  
4 **another state or jurisdiction as a condition of seeking or maintaining a license**  
5 **or certificate of authority or surplus lines approval in that state or jurisdiction,**  
6 **an insurer authorized in Louisiana may make the deposit as provided in this**  
7 **Section.**

8 **(1) The insurer shall notify the commissioner in writing of the intent to**  
9 **make the deposit. This notice shall include the reason for the deposit and the**  
10 **amount of the deposit to be held and shall specifically identify each jurisdiction**  
11 **for which the deposit is required.**

12 **(2) The deposit shall be made in a bank doing business in this state or a**  
13 **savings and loan association chartered to do business in this state and shall be**  
14 **pledged to the commissioner of insurance as provided in this Section.**

15 **(3) Deposits made pursuant to this Section shall be held in trust for the**  
16 **benefit and protection of and as security for all policyholders and creditors of**  
17 **the insurer making the deposit.**

18 **B. The commissioner may, as a condition of the issuance or maintenance**  
19 **of a certificate of authority in this state, order an insurer to make and maintain**  
20 **a deposit based upon the type, volume, or nature of insurance business**  
21 **transacted. Deposits made pursuant to this Subsection shall be held pursuant**  
22 **to the requirements and conditions ordered by the commissioner.**

23 **C. Deposits made pursuant to this Section shall be in the form of money**  
24 **or in approved bonds of the United States, the state of Louisiana, or any**  
25 **political subdivision of the state thereof with a market value of not less than the**  
26 **required amount as specified by the insurer or required by the commissioner.**

27 **D. Every insurer making a deposit in compliance with this Section shall,**  
28 **no later than the first of March each year, provide to the commissioner a**  
29 **safekeeping or trust receipt from the bank or savings and loan association**

1 holding the deposit confirming the amount of the deposit, identifying the nature  
2 of the deposit, and confirming the fact that the deposit is pledged to the  
3 commissioner of insurance.

4 §802. Condition Release of deposits

5 ~~The deposit required by R.S. 22:801 shall be conditioned only for, and~~  
6 ~~dedicated exclusively to, the prompt payment of all claims arising and accruing to~~  
7 ~~any person by virtue of any policy issued by any such insurer upon the life or person~~  
8 ~~of any citizen of the state of Louisiana, or upon any property or other risk situated~~  
9 ~~in this state. Under no circumstances shall such deposit be used for the payment of~~  
10 ~~any fee whatsoever to any attorney, agent, or other person appointed for any services~~  
11 ~~rendered in connection with any ancillary conservation, ancillary receivership, or any~~  
12 ~~other supervisory proceeding or mode involving the company making such deposit.~~

13 A. When an insurer desires to withdraw any deposit or portion of a  
14 deposit made in this state pursuant to R.S. 22:801, the insurer shall make a  
15 written request to the commissioner for release of the funds.

16 B. For deposits held pursuant to R.S. 22:801(A), the commissioner shall  
17 give notice of the withdrawal request to the insurance commissioner or other  
18 proper supervisory official of every state for which the deposit was required.

19 C. For deposits held pursuant to R.S. 22:801(A), the commissioner shall,  
20 no less than thirty days after the notice to other states, authorize the bank or  
21 savings and loan holding the deposit to release the deposit unless he receives  
22 objection of the release from the insurance commissioner or other proper  
23 supervisory official of a state for which the deposit was required.

24 D. For deposits held pursuant to R.S. 22:801(B), the commissioner shall  
25 not release the deposit unless he determines that the grounds or conditions  
26 which led to the order requiring the deposit no longer exist.

27 E. If an insurer is placed into rehabilitation or liquidation in this or  
28 another state, any deposit made in this state may be surrendered to the receiver  
29 pursuant to an order of the receivership court.

1 Section 2. R.S. 22:145, 171, 254(A), (B), (D), (E), and (F), 257(A)(9), 332(A)(13),  
2 333(B) and (C), 341(C), 804, 807, and 808 are hereby repealed.

3 Section 3. This Act shall become effective on July 1, 2021; if vetoed by the governor  
4 and subsequently approved by the legislature, this Act shall become effective on July 1,  
5 2021, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Cheryl Cooper.

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DIGEST

SB 41 Original 2021 Regular Session Bernard

Present law requires that all foreign or alien insurers doing business in Louisiana deposit with the commissioner of insurance a safekeeping or trust receipt from a bank doing business in Louisiana or savings and loan association chartered to do business in Louisiana indicating that \$100,000 in money or approved bonds of the United States, the state of Louisiana, or any political subdivision of the state has been made subject to approval by the commissioner.

Proposed law removes this deposit requirement and provides that if a deposit in Louisiana is required by another state or jurisdiction as a condition of seeking or maintaining a license or certificate of authority or surplus lines approval in that other state or jurisdiction, an insurer authorized in this state may make the deposit.

Proposed law requires that the insurer give written notification to the commissioner of insurance of its intention to make the deposit. Requires that the notice include the reason for the deposit and the amount of the deposit to be held and to specifically identify each jurisdiction for which the deposit is required.

Requires that the deposit be in a bank doing business in this state or a savings and loan association chartered to do business in this state that it be pledged to the commissioner of insurance. Requires that deposits be held in trust for the benefit and protection of and as security for all policyholders and creditors of the insurer.

Proposed law authorizes the commissioner of insurance, as a condition of the issuance or maintenance of a certificate of authority in Louisiana, to order an insurer to make and maintain a deposit based upon the type, volume, or nature of insurance business transacted and that they be held pursuant to the requirements and conditions as ordered by the commissioner. Requires that deposits be in the form of money or approved bonds of the U.S., state of Louisiana, or any political subdivision of the state and have a market value of not less than the required amount.

Proposed law requires every insurer making a deposit under proposed law to provide the commissioner, no later than March 1st of each year, a safekeeping or trust receipt from the bank or savings and loan association holding the deposit confirming the amount of the deposit, identifying the nature of the deposit, and confirming the fact that the deposit is pledged to the commissioner.

Present law requires that the deposit be conditioned only for, and dedicated exclusively to, the prompt payment of all claims arising and accruing to any person by virtue of any policy issued by the insurer upon the life or person of any citizen of the state of Louisiana, or upon any property or other risk situated in the state. Prohibits use of deposit from being used for the payment of any fee to any attorney, agent, or other person appointed for any services

rendered in connection with any ancillary conservation, ancillary receivership, or any other supervisory proceeding or mode involving the company making the deposit.

Proposed law removes the conditions restricting the use of the deposit and provides for the following:

- (1) If the insurer desires to withdraw any deposit or a portion of it, the insurer is to make written request to the commissioner of insurance for its release.
- (2) For deposits made due to requirements in another state or jurisdiction as a condition of licensure or a certificate of authority the commissioner is to give notice of a withdrawal request to the proper supervisory official of every state for which the deposit is required.
- (3) Requires that the commissioner, no less than 30 days after the notice to the other states, authorize the release of the deposit unless there is objection from the commissioner or other supervisory official of the state for which the deposit was required.
- (4) For deposits held as a condition for issuance or maintenance of a certificate of authority in Louisiana, prohibits the commissioner from release of the deposit unless it is determined that grounds or conditions which led to the order requiring the deposit no longer exist.
- (5) If the insurer is placed into rehabilitation or liquidation, any deposit made in Louisiana may be surrendered to the receiver pursuant to an order of the receivership court.

Present law regarding deposit requirements for foreign and alien insurers, provides exceptions for certain insurers having and maintaining \$100,000 unimpaired capital stock, if a stock company, or \$100,000 surplus above all liabilities if a mutual company, and maintaining \$500,000 in approved securities on deposit with the proper official of its home state, or state of entry if an alien insurer, or with its proper territorial officer if domiciled in a United States territory to secure the payment of any policy claims.

Proposed law repeals these provisions.

Proposed law repeals certain provisions regarding withdrawal of any bond or deposit only upon approval by the commissioner.

Present law requires all domestic insurers before receiving a certificate of authority, except those having other specific deposit requirements, to deposit with the commissioner of insurance a safekeeping or trust receipt from a bank doing business within the state or from a savings and loan association chartered to do business in this state indicating that the insurer has deposited \$100,000, or bonds of the United States, the state of Louisiana, or any political subdivision of the state, of the par value of not less than \$100,000 or of a value equal to the minimum capital or initial minimum surplus required in order to transact its business, whichever is less. Proposed law repeals this provision.

Proposed law repeals provisions in present law that have been deleted or made obsolete under proposed law.

Effective July 1, 2021.

(Amends R.S. 22:801 and 802; repeals R.S. 22:145, 171, 254(A), (B), (D), (E), and (F), 257(A)(9), 332(A)(13), 333(B) and (C), 341(C), 804, 807, and 808)