AN ACT

To amend and reenact R.S. 22:2361 through 2370, relative to the Insure Louisiana Incentive Program; to provide for purposes and public purpose; to provide for administration and funding; to provide for cooperative endeavor agreements; to provide for matching grants; to provide for rulemaking; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:2361 through 2370 are hereby amended and reenacted to read as follows:

§2361. Short title

This Chapter shall be known as the "Insure Louisiana Incentive Program", hereinafter and may be referred to as the "program".

§2362. Purposes; public purpose

A. Louisiana currently is experiencing a crisis in the availability and affordability of insurance for residential and commercial properties. Louisiana property owners and their insurers sustained catastrophic losses in 2005 2020 and 2021 from Hurricanes Katrina and Rita, hurricanes Laura, Delta, Zeta, and Ida. As the result of their losses and their assessment of the risk of loss from future...
storms, many insurers have substantially reduced their participation in the voluntary
market for residential and commercial property insurance. With fewer insurers in the
voluntary market, competitive pressure on premium rates is reduced. Current
underwriting practices have resulted in a substantial increase in the number of
Louisiana property owners forced to obtain their property insurance coverage or their
coverage for the wind peril from Louisiana Citizens Property Insurance Corporation
(Citizens), the state insurer of last resort. As a result of the 2005 storms, Citizens has
a substantial deficit that currently is and must be funded by assessments against
insurers and policyholders. The decline in the voluntary insurance market
substantially increases Citizens' exposure, thereby threatening to worsen its financial
condition. Increased premiums and assessments make property insurance coverage
unaffordable for some property owners, forcing them to sell or abandon their
residential or commercial properties or preventing them from restoring storm-
damaged properties, causing some residents to leave or fail to return to the state. The
availability of property insurance at reasonable cost is essential to the economy of
the state. Owners cannot invest in and lenders will not finance the construction and
ownership of residential and commercial buildings without adequate property
insurance protection. The state has a vital interest in fostering the availability of
property insurance at reasonable cost.

B. The Insure Louisiana Incentive Program is adopted for the purpose of
cooperative economic development and stability in Louisiana by encouraging
additional insurers to participate in the voluntary property insurance market in order
to substantially increase the availability of property insurance, to substantially
increase competitive pressure on insurance rates, and to substantially reduce the
volume of business written by the Louisiana Citizens Property Insurance
Corporation, thereby offering a less expensive alternative to its policyholders and
reducing Citizens' exposure to an increased deficit and future assessments.

C. It is hereby declared by the legislature hereby declares that assuring
an adequate and affordable market for insurance for both residential and commercial
properties in this state is essential to the economic viability of the state and its citizens, the assurance of an adequate and stable tax base for the state and its political subdivisions, and the health, welfare, and safety of its citizens. Accordingly, the establishment of the Insure Louisiana Incentive Program implemented through public-private partnerships is declared and demonstrated to be an essential public function and public purpose.

§2363. Cooperative endeavors; grants; regulations

A. The commissioner of insurance is authorized to implement the essential public purpose of this Chapter through public-private partnerships executed through cooperative endeavors with authorized insurers. Such endeavors may include matching capital fund grants under the provisions of this Chapter.

B. The commissioner of insurance may grant matching capital funds to qualified property insurers in accordance with the requirements of this Chapter from the fund. The commissioner shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., governing the application process and award of grants, use of grant funds, reporting requirements and other regulations to assure compliance with and to carry out the purposes of the program.

§2364. Implementation; grant limitations

A. The commissioner of insurance shall adopt and promulgate rules and regulations to implement this program as soon as possible and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

B. When the program is ready for implementation, the commissioner shall issue a public invitation to insurers to submit grant applications. In the initial applications, the commissioner shall not allocate individual grants of less than two million dollars nor in excess of ten million dollars. In the initial allocation of grants only, the commissioner shall allocate twenty percent of the total amount of funds available for grants to domestic insurers.

C. In the event that all monies in the fund are not allocated in response to
the first invitation for grant applications, then the commissioner shall may issue a
second invitation for grant applications. In the second invitation, the commissioner
shall not allocate individual grants of less than two million dollars nor in excess of
ten million dollars, but insurers who have been allocated a grant in response to the
first invitation may apply for an additional grant up to the ten million dollar limit. In
the event that all monies in the fund are not allocated in response to the second
invitation for grant applications, then the commissioner shall may issue a third
invitation for grant applications. In the third invitation, the commissioner shall not
allocate individual grants of less than two million dollars nor in excess of ten million
dollars, but insurers who have been allocated a grant in response to the first or
second invitation may apply for an additional grant up to the ten million dollar limit.

D. Once the commissioner has finalized all responses from three separate
invitations for grant applications authorized under this Chapter, any unexpended and
unencumbered monies in the fund and any matching capital fund grant funds that are
not earned pursuant to R.S. 22:2370(A) shall be used pursuant to the provisions of
R.S. 22:2372 revert to the state general fund. However, if less than thirty-five
million dollars remains in the Insure Louisiana Incentive Fund after responses have
been finalized to the three separate invitations for grant applications, then the
remaining monies in the fund shall instead be used to accelerate payoff of the
Unfunded Accrued Liability of the state retirement systems.

E. The total amount of funds available for this program is the amount
appropriated or otherwise made available to the fund by the legislature. If the amount
requested in grant applications exceeds the amount of funds available, the
commissioner of insurance shall have the discretion to prioritize and allocate funds
among insurers deemed eligible to participate in the program, considering the
financial strength of each insurer and the potential for its business plan to improve
the availability and affordability of property insurance in Louisiana this state.

F. Prior to the award of any grant pursuant to the provisions of this Chapter,
such the grant shall be subject to the review and approval of the Joint Legislative
Committee on the Budget. The use of grant funds and unexpended and
unencumbered monies pursuant to the provisions of Subsection D of this Section
shall not be subject to review and approval of the Joint Legislative Committee on the
Budget.

§2365. Minimum capital requirements

A. Grants shall be made only to insurers who satisfy minimum capital
requirements as specified in the rules and regulations adopted and promulgated by
the commissioner of insurance, which shall include capital and surplus exceeding
twenty-five million dollars, stable financial condition as shown by a satisfactory
risk-based capital level, and an adequate risk-based reinsurance program.

B. In no event shall matching fund grants exceed twenty percent of an
insurer's capital and surplus.

§2366. Satisfactory prior experience

As determined by the commissioner of insurance, grants shall be made only
to insurers with satisfactory prior experience in writing property insurance or to new
insurers whose management has satisfactory prior experience in property insurance.

§2367. Authorized insurers

Although a non-admitted insurer, including an approved unauthorized
surplus lines insurer, may apply for a grant, the insurer must become admitted and
licensed shall obtain a certificate of authority to do business in Louisiana before
it may actually receive the grant funding. The commissioner of insurance may
reallocate funds allocated to such non-admitted surplus lines insurer if that insurer
it does not apply on a timely basis, as specified in the regulations, or is not approved
as an admitted and licensed insurer for a certificate of authority.

§2368. Matching capital fund grants

A. The insurer shall make a commitment of capital of not less than two
million dollars to write property insurance in Louisiana this state that complies with
the requirements of R.S. 22:2369.

B. Matching capital fund grants authorized under this Chapter shall match
such the newly allocated insurer capital funds at a ratio of one dollar of state capital
grant funds to one dollar of allocated insurer capital funds.

§2369. Net written premium requirements

A. "Net written premiums" means the total premiums, exclusive of
assessments and other charges, paid by policyholders to insurers for policies that
comply with the provisions of this Section, minus any return premiums or other
premium credits due policyholders.

B. To comply with the requirements of this Chapter, the new property
insurance written by the insurer who received a matching capital fund grant shall be
residential, commercial, mono-line, or package property insurance policies in
Louisiana this state, and must shall include coverage for wind and hail with limits
equal to the limits provided for other perils insured under such policies. The net
written premium requirements of this Section will shall be satisfied only by property
insurance coverages reported on the Annual Statement State Page filed with the
Department of Insurance under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4
(Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

C. Insurers who receive the matching capital fund grants must shall write
property insurance in Louisiana this state that complies with the requirements of this
Section with net written premiums of at least a ratio of two dollars of premium for
each dollar of the total of newly allocated insurer capital and the matching capital
fund grant. Thus, if the insurer allocates two million dollars in capital and receives
a matching capital fund grant of two million dollars, the insurer must shall write
property insurance in Louisiana this state with net written premiums of at least eight
million dollars.

D. In the first twenty-four months after receipt of matching capital fund
grants insurers shall write at least fifty percent of the net written premium for
policyholders whose property is located in the parishes included in the federal Gulf
Opportunity Zone Act of 2005 in Louisiana. Twenty-five percent of the net written
premium for policyholders whose property was formerly insured by the Louisiana

Coding: Words which are struck through are deletions from existing law;
words in boldface type and underscored are additions.
Citizens Property Insurance Corporation, and at least fifty percent of such policyholders shall have property located in the parishes included in the federal Gulf Opportunity Zone Act of 2005 in Louisiana. Insurers shall maintain this net written premium ratio over five years to fully earn the matching capital fund grant as outlined in R.S. 22:2370 in accordance with R.S. 22:2370.

E.(1) The commissioner shall promulgate rules pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., to establish procedures to monitor the net written premium of insurers receiving any grant under this Chapter and to ensure that the insurer is in compliance with the provisions of this Section. These rules shall include provisions for the return of grant money to the state, on a pro rata basis, for failure to meet the requirements of this Section. Notwithstanding the provisions of R.S. 22:2370 to the contrary, the commissioner shall seek the return of unearned grant money from any insurer who has not been in compliance complied with the provisions of this Section for five consecutive years commencing on January 1, 2009 January 1, 2024, and ending on December 31, 2013 December 31, 2028.

(2)(a) Notwithstanding the provisions of this Chapter to the contrary, rules and regulations promulgated by the commissioner pursuant to this Chapter shall provide that grants, made pursuant to a third invitation for grant applications, may be made to insurers providing coverage against damage to an existing dwelling. The A grant shall be made only as to those policies transferred from an existing dwelling to a new dwelling provided the risk of catastrophe associated with the new dwelling is the same as or no greater than the level of risk of catastrophe associated with the existing dwelling.

(b) Grants shall also be made under the provisions of this Paragraph to any insurer that was forced to reduce coverage, or drop coverage entirely, on existing dwellings in order that the insurer maintain its financial stability or solvency. Such A grant made under this Subparagraph shall be contingent on the insurer reinstating such former coverage or better coverage on the existing dwellings.
§2370. Earned capital

A. An insurer who has received a matching capital fund grant under the provisions of this Chapter is entitled to earn the grant at the rate of twenty percent per year for each year in which the insurer maintains the net written premiums in compliance with the requirements of this Chapter, so that the insurer may earn the entire grant in five years.

B. If any insurer fails to comply with the requirements of this Chapter at the end of any year of the grant, the commissioner of insurance shall have the option of granting an extension if the insurer shows promise of future compliance.

C. If the commissioner of insurance finds that an insurer has failed to comply with the statutory or regulatory requirements for the grant, the commissioner may declare the insurer in default. The insurer in default shall repay any matching capital fund grant funds that have not been earned under Subsection A of this Section, plus legal interest from the date of the commissioner's default declaration.

D. In the event of insolvency of an insurer, the Louisiana Insurance Guaranty Association shall have no obligation to repay matching capital fund grants shall not be a liability of the Louisiana Insurance Guaranty Association.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.
deficit of Citizens.

Present law requires the commissioner of insurance (commissioner) issue a public invitation to insurers to submit grant applications upon the implementation of the program and prohibits the commissioner from allocating individual grants less than $2 million nor in excess of $10 million in the initial applications, and requires the commissioner to initially allocate 20% of the total funds to domestic insurers. Present law requires the commissioner to offer a second invitation if all monies from the first invitation are not allocated and requires the commissioner to offer a second invitation and prohibits the commissioner from allocating individual grants less than $2 million nor in excess or $10 million, but authorizes insurers who received a grant in response to the first invitation to apply for an additional grant up to a $10 million limit. Requires the commissioner to offer a third invitation if all monies from the second and third invitation are not allocated and prohibits the commissioner from allocating individual grants less than $2 million nor in excess of $10 million, but authorizes insurers who received a grant in response to the first and second invitation to apply for an additional grant up to a $10 million limit.

Proposed law retains present law but changes the commissioner is required to issue a second and third invitation to the commissioner is authorized to issue a second and third invitation.

Present law requires that once the three separate invitations and responses have been finalized, the commissioner is to direct any unexpended or unencumbered funds and any matching capital grant funds not earned to be used for the property insurance tax credit, but requires that if the amount of funds in the program is less than $35 million after the three separate invitations have been finalized, the funds are to be used to accelerate payoff of the Unfunded Accrued Liability of the state retirement systems.

Proposed law retains present law but deletes three separate invitations and requires the unallocated money reverts back to the state general fund and deletes funds less than $35 million be allocated to the Unfunded Accrued Liability of the state retirement systems.

Present law authorizes a non-admitted insurer and an approved unauthorized insurer to apply for a grant if the insurer becomes admitted and licensed to do business in this state, and requires the commissioner to reallocate funds the insurer was to receive if the insurer does not apply timely or is not admitted and licensed in this state.

Proposed law retains present law but removes a non-admitted insurer and an approved unauthorized insurer, but includes a surplus lines insurer, and changes from failing to become admitted and licensed in this state to failing to obtain a certificate of authority.

Present law requires the commissioner to promulgate rules to establish procedures to monitor the net written premium of insurers receiving a grant and to ensure an insurer complies with the provisions of present law and requires the commissioner to provide rules for returning grant money to the state on a pro rata basis if the insurer fails to comply with present law and requires the commissioner to seek the return of unearned grant money from an insurer if the insurer has not complied with the rules for five consecutive years commencing on January 1, 2009 and ending December 31, 2013.

Proposed law retains present law but changes the dates from "January 1, 2009" and "December 31, 2013" to "January 1, 2024" and "December 31, 2028".

Effective August 1, 2022.

(Amends R.S. 22:2361 - 2370)