AN ACT

To amend and reenact R.S. 22:2361 through 2370 and to enact R.S. 22:2371, relative to the Insure Louisiana Incentive Program; to provide for purposes and public purpose; to provide relative to 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 and R.S. 22:2371 is hereby enacted 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 may 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 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.
the event that if 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 considered 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 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 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 that complies with the requirements of R.S. 22:2369.

B. Matching capital fund grants authorized under this Chapter shall match 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. Written premium requirements

A. For the purposes of this Chapter, "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 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 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 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 write property insurance in Louisiana 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 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 must maintain this net written premium ratio over five years to fully earn the matching capital fund grant as outlined in R.S. 22:3310 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 with the provisions of this Section for five consecutive years commencing on January 1, 2009 and ending on 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 Such 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 pursuant to 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 shall 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 such that the insurer may earn the entire grant in five years.

B. If any an 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.

§2371. Insure Louisiana Incentive Fund

There is hereby created in the state treasury as a special fund the Insure
Louisiana Incentive Fund, referred to in this Chapter as the "fund". Monies
appropriated or transferred to the fund shall be deposited by the state treasurer
after compliance with the provisions of Article VII, Section 9(B) of the
Constitution of Louisiana. Monies in the fund shall be invested in the same
manner as monies in the state general fund and any interest earned on the
investment of monies in the fund shall be credited to the fund. All unexpended
and unencumbered monies in the fund at the end of the fiscal year shall remain
in the fund. Monies in the fund shall be used by the department to provide
grants pursuant to the provisions of this Chapter.

PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________