

2018 Regular Session

HOUSE BILL NO. 551

BY REPRESENTATIVE HUVAL

INSURANCE: Provides relative to the Louisiana Life and Health Insurance Guaranty Association

1 AN ACT

2 To amend and reenact R.S. 22:2082, 2083(A)(1), (2)(introductory paragraph) and (b), and

3 (5), (B)(1) and (2)(introductory paragraph), (a), (h)(introductory paragraph), (ii) and

4 (iii), (i) and (C)(1)(introductory paragraph), 2084(5), (8), (11.1), and (12),

5 2085(A)(introductory paragraph) and (4) and (B), 2086(A)(introductory paragraph),

6 (1) and (7), 2087(A)(introductory paragraph) and (1), (B)(introductory paragraph)

7 and (1), (C), (F), (L), (M)(1), (4), and (5), (N), and (Q)(introductory paragraph),

8 2088(C), (E)(1)(a) and (b), (F) through (H), and (I)(5), 2090(A)(introductory

9 paragraph) and (2), (B), (C), and (D), 2091(A)(introductory paragraph), (1)(a)(iii)

10 and (b), and (3), (B), and (C), 2092(D), 2093(C), (D)(1), and (E)(1) through (3),

11 2098(A), (B), and (C)(2), and 2099, to enact R.S. 22:2083(B)(3) and (C)(3),

12 2084(15), and 2092(E), and to repeal R.S. 22:2084(8)(a), relative to the Louisiana

13 Life and Health Insurance Guaranty Association; to provide for purpose, scope, and

14 applicability; to define key terms; to add health maintenance organizations as

15 member insurers; to provide for the assessment of member insurers relative to

16 long-term care policies and contracts; to provide for the reissuance of policies or

17 contracts by the association; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 22:2082, 2083(A)(1), (2)(introductory paragraph) and (b), and (5),
3 (B)(1) and (2)(introductory paragraph), (a), (h)(introductory paragraph), (ii) and (iii), (i) and
4 (C)(1)(introductory paragraph), 2084(5), (8), (11.1), and (12), 2085(A)(introductory
5 paragraph) and (4) and (B), 2086(A)(introductory paragraph), (1) and (7),
6 2087(A)(introductory paragraph) and (1), (B)(introductory paragraph) and (1), (C), (F), (L),
7 (M)(1), (4), and (5), (N), and (Q)(introductory paragraph), 2088(C), (E)(1)(a) and (b), (F)
8 through (H), and (I)(5), 2090(A)(introductory paragraph) and (2), (B), (C), and (D),
9 2091(A)(introductory paragraph), (1)(a)(iii) and (b), and (3), (B), and (C), 2092(D), 2093(C),
10 (D)(1), and (E)(1) through (3), 2098(A), (B), and (C)(2), and 2099 are hereby amended and
11 reenacted and R.S. 22:2083(B)(3) and (C)(3), 2084(15), and 2092(E) are hereby enacted to
12 read as follows:

13 §2082. Purpose

14 A. The purpose of this Part is to protect, subject to certain limitations, the
15 persons listed in R.S. 22:2083(A) against failure in the performance of contractual
16 obligations, under life, ~~and health, insurance policies~~ and annuity policies, plans, or
17 contracts specified in R.S. 22:2083(B), because of the impairment or insolvency of
18 the member insurer that issued the policies or contracts.

19 B. To provide this protection, an association of member insurers is hereby
20 created to pay benefits and to continue coverages as limited herein. Members of the
21 association are subject to assessment to provide funds to carry out the purpose of this
22 Part.

23 §2083. Coverages and limitations

24 A. This Part shall provide coverage for the policies and contracts specified
25 in Subsection B of this Section:

26 (1) To any person who, regardless of residence, except for a nonresident
27 certificate holder under a group policy or contract, is the beneficiary, assignee, or
28 payee, including healthcare providers rendering services covered under health

1 insurance policies or certificates, of a person covered under Paragraph (2) of this
2 Subsection.

3 (2) To any person who is the owner of or certificate holder or enrollee under
4 such a policy or contract, other than a structured settlement annuity, and who is
5 either:

6 * * *

7 (b) Is not a resident, but only if all of the following conditions are satisfied:

8 (i) The member insurer which issued such policy or contract is domiciled in
9 this state.

10 (ii) The member insurer has never held a license or certificate of authority
11 in the state in which such person resides.

12 (iii) ~~Such~~ The state has an association similar to the association created by
13 this Part.

14 (iv) The person is not eligible for coverage by such association.

15 * * *

16 (5) This Part is intended to provide coverage to a person who is a resident
17 of this state and, in special circumstances, to a nonresident. In order to avoid
18 duplicate coverage, if a person who would otherwise receive coverage under this Part
19 is provided coverage under the laws of any other state, the person shall not be
20 provided coverage under this Part. In determining the application of the provisions
21 of this Paragraph in situations where a person could be covered by the association
22 of more than one state, whether as an owner, payee, enrollee, beneficiary or assignee,
23 this Part shall be construed in conjunction with other state laws to result in coverage
24 by only one association.

25 B.(1) This Part shall provide coverage to the persons specified in Subsection
26 A of this Section for policies or contracts of direct, non-group life insurance, health
27 insurance including, for purposes of this Part, health maintenance organization
28 subscriber contracts and certificates, or ~~annuity policies or contracts~~ annuities, for
29 certificates under direct group policies and contracts for supplemental contracts to

1 any of these, and for unallocated annuity contracts, in each case issued by member
2 insurers, except as limited by this Part.

3 (2) ~~This~~ Except as otherwise provided in Paragraph (3) of this Subsection,
4 this Part shall not provide coverage for any of the following:

5 (a) Any portion of a policy or contract not guaranteed by the member
6 insurer, or under which the risk is borne by the policy or contract holder.

7 * * *

8 (h) An obligation that does not arise under the express written terms of the
9 policy or contract issued by the member insurer to the enrollee, certificate holder,
10 contract owner, or policy owner, including without limitations, any of the following:

11 * * *

12 (ii) Claims based on side letters, riders, or other documents that were issued
13 by the member insurer without meeting applicable policy or contract form filing or
14 approval requirements.

15 (iii) Misrepresentations of or regarding policy or contract benefits.

16 * * *

17 (i) A policy or contract providing any hospital, medical, prescription drug
18 or other health care benefits pursuant to Part C or Part D of Subchapter XVIII,
19 Chapter 7 of Title 42 of the United States Code, commonly referred to as "Medicare
20 Part C coverage" and "Medicare Part D coverage", or Subchapter XIX of Chapter 7
21 of Title 42 of the United States Code, commonly referred to as "Medicaid", and any
22 regulations issued pursuant to those parts or subchapter.

23 * * *

24 (3) The exclusion from coverage provided for in Subparagraph (2)(c) of this
25 Subsection shall not apply to any portion of a policy or contract, including a rider,
26 that provides long-term care or any other health insurance benefits.

27 C. The benefits for which the association shall become liable shall in no
28 event exceed the lesser of the following:

1 (1) The contractual obligations for which the member insurer is liable or
2 would have been liable if it were not an impaired or insolvent insurer.

3 * * *

4 (3) For purposes of this Part, benefits provided by a long-term care rider to
5 a life insurance policy or annuity contract shall be considered the same type of
6 benefits as the base life insurance policy or annuity contract to which it relates.

7 * * *

8 §2084. Definitions

9 As used in this Part:

10 * * *

11 (5) "Covered contract " or "covered policy" means any policy or contract
12 within the scope of this Part as set forth by in R.S. 22:2083.

13 * * *

14 (8) "Member insurer" means any insurer licensed or which holds a certificate
15 of authority to transact in this state any kind of insurance for which coverage is
16 provided by R.S. 22:2083, and includes any insurer whose license or certificate of
17 authority in this state may have been suspended, revoked, not renewed, or voluntarily
18 withdrawn, but shall not include any of the following:

19 * * *

20 (11.1) "Receivership court" means the court in the insolvent or impaired
21 insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation
22 of the member insurer.

23 (12) "Resident" means a person who resides in this state on the date of entry
24 of a court order that determines a member insurer to be an impaired insurer or a court
25 order that determines a member insurer to be an insolvent insurer and to whom a
26 contractual obligation is owed. A person may be a resident of only one state, which
27 in the case of a person other than a natural person shall be its principal place of
28 business. Citizens of the United States that are either (a) residents of foreign
29 countries, or (b) residents of United States possessions, territories, or protectorates

1 that do not have an association similar to the association created by this Part, shall
2 be deemed residents of the state of domicile of the member insurer that issued the
3 policies or contracts.

4 * * *

5 (15) "Health benefit plan" means any hospital or medical expense policy or
6 certificate, or health maintenance organization subscriber contract or any other
7 similar health contract. "Health benefit plan" shall not include:

8 (a) Accident only insurance.

9 (b) Credit insurance.

10 (c) Dental only insurance.

11 (d) Vision only insurance.

12 (e) Medicare Supplement insurance.

13 (f) Benefits for long-term care, home health care, community-based care, or
14 any combination thereof.

15 (g) Disability income insurance.

16 (h) Coverage for on-site medical clinics.

17 (i) Specified disease, hospital confinement indemnity, or limited benefit
18 health insurance if the types of coverage do not provide coordination of benefits and
19 are provided under separate policies or certificates.

20 §2085. Creation of the association

21 A. There is hereby created a nonprofit entity to be known as the Louisiana
22 Life and Health Insurance Guaranty Association whose legal domicile shall be in the
23 parish of East Baton Rouge. All member insurers shall be and remain members of
24 the association as a condition of their authority to transact insurance or a health
25 maintenance organization business in this state. The association shall perform its
26 function under the plan of operation established and approved pursuant to R.S.
27 22:2089 and shall exercise its powers through a board of directors established ~~by~~

1 actions ~~as~~ that do not impair the contractual obligations of the impaired insurer and
2 that are approved by the commissioner:

3 (1) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed,
4 assumed, or reinsured, any or all of the policies or contracts of the impaired insurer.

5 * * *

6 B. If a member insurer is an insolvent insurer, the association shall, in its
7 discretion, ~~perform~~ do any of the following:

8 (1) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed,
9 assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer.

10 * * *

11 C. With respect to ~~life and health insurance policies and annuities~~ policies
12 and contracts, the association shall do all of the following:

13 (1) Assure payment of benefits for ~~premiums identical to the premiums and~~
14 ~~benefits, except for terms of conversion and renewability~~, that would have been
15 payable under the policies or contracts of the insolvent insurer, for claims incurred.

16 (a) With respect to group policies and contracts, not later than the earlier of
17 the next renewal date under ~~such~~ the policies or contracts or forty-five days, but in
18 no event less than thirty days, after the date on which the association becomes
19 obligated with respect to ~~such~~ the policies and contracts.

20 (b) With respect to non-group policies, contracts, and annuities, not later
21 than the earlier of the next renewal date, if any, under ~~such~~ the policies or one year,
22 but in no event less than thirty days, from the date on which the association becomes
23 obligated with respect to ~~such~~ the policies or contracts.

24 (2) Make reasonable and diligent efforts to provide all known insureds,
25 enrollees, or annuitants for non-group policies and contracts, or group ~~policyholders~~
26 policy or contract owners with respect to group policies and contracts, thirty days
27 prior notice of the termination of the benefits provided.

28 (3) With respect to non-group ~~life and health insurance~~ policies and ~~annuities~~
29 contracts covered by the association, make available to each known insureds,

1 enrollees, or annuitant, or owner if other than the insured or annuitant, and with
2 respect to an individual formerly an insureds, enrollee, or ~~formerly an~~ annuitant
3 under a group policy or contract who is not eligible for replacement group coverage,
4 make available substitute coverage on an individual basis in accordance with the
5 provisions of Paragraph (4) of this Subsection, if the insureds, enrollees, or
6 annuitants had a right under law or the terminated policy, contract, or annuity to
7 convert coverage to individual coverage or to continue an individual policy, contract,
8 or annuity in force until a specified age or for a specified time, during which the
9 insurer or health maintenace organization had no right to unilaterally alter any
10 provision of the policy or annuity or had a right to undertake alterations only in
11 premium by class.

12 (4)(a) In providing the substitute coverage required under Paragraph (3) of
13 this Subsection, the association may offer either to reissue the terminated coverage
14 or to issue an alternative policy or contract at actuarially justified rates, subject to the
15 prior approval of the commissioner.

16 (b) Alternative or reissued policies or contracts shall be offered without
17 requiring evidence of insurability, and shall not provide for any waiting period or
18 exclusion that would not have applied under the terminated policy or contract.

19 (c) The association may reinsure any alternative or reissued policy or
20 contract.

21 (5)(a) Alternative policies adopted by the association shall be subject to the
22 approval of the ~~domiciliary insurance~~ commissioner ~~and the receivership court.~~ The
23 association may adopt alternative policies or contracts of various types for future
24 issuance without regard to any particular impairment or insolvency.

25 (b) Alternative policies or contracts shall contain at least the minimum
26 statutory provisions required in this state and provide benefits that shall not be
27 unreasonable in relation to the premium charged. The association shall set the
28 premium in accordance with a table of rates that it shall adopt. The premium shall
29 reflect the amount of insurance to be provided and the age and class of risk of each

1 insured, but shall not reflect any changes in the health of the insured after the
2 original policy or contract was last underwritten.

3 (c) Any alternative policy or contract issued by the association shall provide
4 coverage of a type similar to that of the policy or contract issued by the impaired or
5 insolvent insurer, as determined by the association.

6 (6) If the association elects to reissue terminated coverage at a premium rate
7 different from that charged under the terminated policy or contract, the premium
8 shall be actuarially justified and set by the association in accordance with the amount
9 of insurance or coverage provided and the age and class of risk, subject to the prior
10 approval of the ~~domiciliary insurance commissioner and the receivership court~~.

11 (7) The association's obligations with respect to coverage under any policy
12 or contract of the impaired or insolvent insurer or under any reissued or alternative
13 policy or contract shall cease on the date the coverage or policy is replaced by
14 another similar policy or contract by the policy or contract owner, the insured, or the
15 association.

16 (8) When proceeding ~~under~~ pursuant to this Subsection with respect to a
17 policy or contract carrying guaranteed minimum interest rates, the association shall
18 assure the payment or crediting of a rate of interest consistent with R.S.
19 22:2083(B)(2)(c).

20 * * *

21 F. Nonpayment of premiums within thirty-one days after the date required
22 by the terms of any guaranteed, assumed, alternative, or reissued policy or contract
23 or substitute coverage shall terminate the association's obligations under such policy,
24 contract, or coverage under this Part with respect to such policy, contract, or
25 coverage, except with respect to any claims incurred or any net cash surrender value
26 which may be due in accordance with the provisions of this Part.

27 * * *

28 L. The association shall have standing to appear or intervene before any
29 court in this state or state agency with jurisdiction over an impaired or insolvent

1 insurer and concerning which the association shall become obligated under this Part
 2 or with jurisdiction over any other person or property against which the association
 3 may have benefit through subrogation or otherwise. The standing shall extend to all
 4 matters germane to the powers and duties of the association, including but not
 5 limited to proposals for reinsuring, reissuing, modifying, or guaranteeing the policies
 6 or contracts of the impaired or insolvent insurer and the determination of the policies
 7 or contracts and contractual obligations. The association shall also have the right to
 8 appear or intervene before a court or agency in another state with jurisdiction over
 9 any person or property for which the association shall become obligated or with
 10 jurisdiction over a third party against whom the association may have rights through
 11 subrogation or otherwise.

12 M.(1) Any person receiving benefits under this Part shall be deemed to have
 13 assigned the rights under, and any causes of action relating to, the covered policy or
 14 contract to the association to the extent of the benefits received because of this Part,
 15 whether the benefits are payments of or on account of contractual obligations,
 16 continuation of coverage, or provision of substitute or alternative policies, contracts,
 17 or coverages. The association may require an assignment of such rights and cause
 18 of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or
 19 annuitant as a condition precedent to the receipt of any right or benefits conferred by
 20 this Part upon such person.

21 * * *

22 (4) If the provisions of this Subsection are determined to be invalid or
 23 ineffective with respect to any person or claim for any reason, the amount payable
 24 by the association with respect to the related, covered obligations shall be reduced
 25 by the amount realized by any other person or claim that is attributable to the policies
 26 or contracts, or portion thereof, covered by the association.

27 (5) If the association has provided benefits with respect to a covered
 28 obligation and a person recovers amounts as to which the association has rights as
 29 described in Paragraph (4) of this Subsection, the person shall pay to the association

1 the portion of the recovery attributable to the policies or contracts, or the portion
2 thereof, covered by the association.

3 N. The association may do any of the following:

4 (1) Enter into ~~such~~ any contracts as are necessary or proper to implement the
5 provisions and purposes of this Part.

6 (2) Sue or be sued, including taking any legal actions necessary or proper to
7 recover any unpaid assessments pursuant to R.S. 22:2088 and to settle claims or
8 potential claims against it.

9 (3) Borrow money to effect the purposes of this Part. Any notes or other
10 evidence of indebtedness of the association not in default shall be legal investments
11 for domestic member insurers and may be carried as admitted assets.

12 (4) Employ or retain ~~such~~ any persons as are necessary to handle the
13 financial and legal transactions of the association, and to perform ~~such~~ other
14 functions as become necessary or proper under this Part.

15 (5) Take ~~such~~ any legal action as may be necessary to avoid payment or
16 recover payment of improper claims.

17 (6) Exercise, for the purposes of this Part and to the extent approved by the
18 commissioner, the powers of a domestic life ~~or insurer~~, health insurer, or health
19 maintenance organization, but in no case may the association issue ~~insurance~~ policies
20 or ~~annuity~~ contracts other than those issued to perform its obligations under this Part.

21 (7) Unless prohibited by law, in accordance with the terms and conditions
22 of the policy or contract, file for actuarially justified rate or premium increases for
23 any policy or contract for which it provides coverage pursuant to this Part.

24 * * *

25 Q. In carrying out its duties in connection with guaranteeing, assuming,
26 reissuing, or reinsuring policies or contracts under this Section, the association may;
27 ~~subject to approval of the receivership court~~, issue substitute coverage for a policy
28 or contract that provides an interest rate, crediting rate, or similar factor determined
29 by use of an index or other external reference stated in the policy or contract

1 employed in calculating returns or changes in value by issuing an alternative policy
2 or contract that meets the following requirements:

3 * * *

4 §2088. Assessments

5 * * *

6 C.(1) The amount of any Class A assessment shall be determined by the
7 board ~~and shall not exceed three hundred dollars per member insurer in any one~~
8 ~~calendar year.~~ The amount of any Class B assessment, except for assessments
9 related to long-term care insurance, shall be allocated for assessment purposes
10 among the accounts pursuant to an allocation formula which may be based on the
11 premiums or reserves of the impaired or insolvent insurer or any other standard
12 deemed by the board in its sole discretion as being fair and reasonable under the
13 circumstances and established in the plan of operation.

14 (2) The amount of the Class B assessment for long-term care insurance
15 written by the impaired or insolvent insurer shall be allocated according to a
16 methodology included in the plan of operation and approved by the commissioner.
17 The methodology shall provide for fifty percent of the assessment to be allocated to
18 accident and health member insurers and fifty percent to be allocated to life and
19 annuity member insurers.

20 (3) Class B assessments against member insurers for each account shall be
21 in the proportion that the premiums received on business in this state by each
22 assessed member insurer on policies or contracts covered by each account for the
23 three most recent calendar years for which information is available preceding the
24 year in which the member insurer became impaired or insolvent, as the case may be,
25 bears to such premiums received on business in this state for such calendar years by
26 all assessed member insurers.

27 ~~(3)~~ (4) Assessments for funds to meet the requirements of the association
28 with respect to an impaired or insolvent insurer shall not be commenced by the board
29 of directors until necessary to implement the purposes of this Part. Classification of

1 assessments pursuant to Subsection B of this Section and computation of
2 assessments pursuant to this Subsection shall be made with a reasonable degree of
3 accuracy.

4 * * *

5 E.(1)(a) The total of all assessments upon an insurer for each account shall
6 not in any one calendar year exceed two percent of such average premiums received
7 of the insurers in this state on the policies and contracts covered by the account
8 during the three calendar years preceding the year in which the member insurer
9 became an impaired or insolvent insurer.

10 (b) With respect to member insurers that become impaired or insolvent in
11 different calendar years, if two or more assessments are authorized in one calendar
12 year, the average annual premiums for purposes of the aggregate assessment
13 percentage limitation referenced in Subparagraph (a) of this Paragraph shall be equal
14 and limited to the higher of the three-year average annual premiums for the
15 applicable account as calculated pursuant to this Section.

16 * * *

17 F. The board may, by an equitable method as established in the plan of
18 operation, refund to member insurers, in proportion to the contribution of each
19 member insurer to that account, the amount by which the assets of that account
20 exceed the amount the board finds is necessary to carry out during the coming year
21 the obligations of the association with regard to that account, including assets
22 accruing from assignment, subrogation, net realized gains, and income from
23 investments. A reasonable amount may be retained in any account to provide funds
24 for the continuing expenses of the association and for future losses.

25 G. It shall be proper for any member insurer, in determining its premium
26 rates and policy owner dividends as to any kind of insurance or health maintenance
27 organization business within the scope of this Part, to consider the amount
28 reasonably necessary to meet its assessment obligations under this Part.

1 member insurer who fails to pay an assessment when due. The fine shall not exceed
2 five percent of the unpaid assessment per month, but no fine shall be less than one
3 hundred dollars per month.

4 C. Any action of the board of directors or the association may be appealed
5 to the commissioner by any member insurer if such appeal is taken within sixty days
6 of the final action being appealed. If a member ~~company~~ insurer is appealing an
7 assessment, the amount assessed shall be paid to the association and credited to meet
8 association obligations during the pendency of an appeal. If the appeal on the
9 assessment is upheld, the amount if paid in error or excess, shall be returned to the
10 member ~~company~~ insurer without interest. Any final action or order of the
11 commissioner shall be subject to judicial review in a court of competent jurisdiction.

12 D. The liquidator, rehabilitator, or conservator of any impaired or insolvent
13 insurer shall notify all interested persons of the effect of this Part.

14 §2091. Prevention of insolvencies

15 A. To aid in the detection and prevention of member insurer insolvencies or
16 impairments, it shall be the duty of the commissioner:

17 (1)(a) To notify the commissioner of insurance, or other appropriate official,
18 of all the other states, territories of the United States, and the District of Columbia
19 when he takes any of the following actions against a member insurer:

20 * * *

21 (iii) Makes any formal order that ~~such company~~ the member insurer restrict
22 its premium writing, obtain additional contributions to surplus, withdraw from the
23 state, reinsure all or any part of its business, or increase capital, surplus, or any other
24 account for the security of policyholders or creditors.

25 (b) ~~Such~~ The notice shall be mailed to all such commissioners or other
26 appropriate officials within thirty days following the action taken or the date on
27 which such action occurs.

28 * * *

1 (3) To report to the board of directors when he has reasonable cause to
2 believe from any examination, whether completed or in process, of a member insurer
3 that ~~such~~ the member insurer may be an impaired or insolvent insurer.

4 * * *

5 B. The commissioner may seek the advice and recommendation of the board
6 of directors concerning any matter affecting his duties and responsibilities regarding
7 the financial condition of member insurers and ~~companies~~ and insurers or health
8 maintenance organizations seeking admission to transact ~~insurance~~ business in this
9 state.

10 C. The board of directors may, upon majority vote, make reports and
11 recommendations to the commissioner upon any matter germane to the solvency,
12 liquidation, rehabilitation, or conservation of any member insurer or germane to the
13 solvency of any ~~company~~ insurer or health maintenance organization seeking to
14 transact ~~insurance~~ business in this state. ~~Such~~ The reports and recommendations
15 shall not be considered public ~~documents~~ records.

16 * * *

17 §2092. Offsets for assessments paid

18 * * *

19 D. Any sums which are acquired by refund, from the association by member
20 insurers, and which have theretofore been offset against premium, franchise, and
21 income taxes as provided in Subsection A of this Section shall be paid by the
22 insurers to this state in such manner as the tax authorities may require. The
23 association shall notify the commissioner that such refunds have been made.

24 E.(1) A member insurer that is exempt from taxes referenced in Subsection
25 A of this Section may recoup its assessments by a surcharge on its premiums in a
26 sum reasonably calculated to recoup the assessments over a reasonable period of
27 time, as approved by the commissioner.

1 association shall be entitled to make application to the receivership court for
2 approval of its own proposal to disburse these assets.

3 D.(1) Prior to the termination of any liquidation, rehabilitation, or
4 conservation proceeding, the court may take into consideration the contributions of
5 the respective parties, including the association, shareholders, ~~of the insolvent~~
6 ~~insurer~~, contract owners, certificate holders, enrolles, and policy owners of the
7 insolvent insurer, and any other party with a bona fide interest, in making an
8 equitable distribution of the ownership rights of such insolvent insurer. In such a
9 determination, consideration shall be given to the welfare of the ~~policyholders~~ policy
10 owners, contract owners, certificate holders, and enrollees of the continuing or
11 successor insurer.

12 * * *

13 E.(1) If an order for liquidation or rehabilitation of ~~an~~ member insurer
14 domiciled in this state has been entered, the receiver appointed under such order shall
15 have a right to recover on behalf of the member insurer, from any affiliate that
16 controlled it, the amount of distributions, other than stock dividends paid by the
17 member insurer on its capital stock, made at any time during the five years preceding
18 the petition for liquidation or rehabilitation subject to the limitations of Paragraphs
19 (2) and (4) of this Subsection.

20 (2) No such distribution shall be recoverable if the member insurer shows
21 that when paid the distribution was lawful and reasonable, and that the member
22 insurer did not know and could not reasonably have known that the distribution
23 might adversely affect the ability of the member insurer to fulfill its contractual
24 obligations.

25 (3) Any person who was an affiliate that controlled the member insurer at the
26 time the distributions were paid shall be liable up to the amount of distributions
27 received. Any person who was an affiliate that controlled, as defined in R.S.
28 22:2092(C)(2), the member insurer at the time the distributions were declared, shall
29 be liable up to the amount of distributions he would have received if they had been

1 owner, contract owner, certificate holder, or enrollee thereof would be covered in the
2 event of the impairment or insolvency of a member insurer. The description
3 document shall be revised by the association as amendments to this Part may require.
4 Failure to receive this document shall not give the ~~policyholder~~, policy owner,
5 contract ~~holder~~, owner, certificate holder, enrollee, or insured any greater rights than
6 those stated in this Part.

7 C. The document prepared pursuant to Subsection B of this Section shall
8 contain a clear and conspicuous disclaimer on its face. The commissioner shall
9 promulgate a rule establishing the form and content of the disclaimer. The
10 disclaimer shall do all of the following:

11 * * *

12 (2) Prominently warn the policy ~~or~~ owner, contract owner, certificate holder,
13 or enrollee that the association may not cover the policy or, if coverage is available,
14 it will be subject to substantial ~~limitation~~, limitations and exclusions, and conditioned
15 on continued residence in the state.

16 * * *

17 §2099. Prospective application

18 This Part shall not apply to any member insurer or its subsidiaries, insurance
19 holding company system or related, either directly or indirectly, agents, affiliates, or
20 other entities which are insolvent or impaired or unable to fulfill its contractual
21 obligations before September 30, 1991.

22 Section 2. R.S. 22:2084(8)(a) is hereby repealed in its entirety.

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)]

HB 551 Original

2018 Regular Session

Huval

Abstract: Adds health maintenance organizations to the membership of the La. Life and Health Insurance Guaranty Association.

Present law establishes the La. Life and Health Insurance Guaranty Association.

Proposed law adds health maintenance organizations as member insurers of the association and updates terminology accordingly.

Proposed law adds a definition for "health benefit plan".

Present law provides for assessments on member insurers of the association.

Proposed law adds an assessment relative to long-term care policies and contracts.

Present law provides for the powers and duties of the association.

Proposed law adds an authorization for the reissuance of policies or contracts by the association.

Present law establishes the powers and duties of the commissioner of insurance.

Proposed law retains present law.

(Amends R.S. 22:2082, 2083(A)(1), (2)(intro. para.) and (b), and (5), (B)(1) and (2)(intro. para.), (a), (h)(intro. para.), (ii) and (iii), (i) and (C)(1)(intro. para.), 2084(5), (8), (11.1), and (12), 2085(A)(intro. para) and (4) and (B), 2086(A)(intro. para.), (1) and (7), 2087(A)(intro. para) and (1), (B)(intro. para.) and (1), (C), (F), (L), (M)(1), (4), and (5), (N), and (Q)(intro. para), 2088(C), (E)(1)(a) and (b), (F)-(H), and (I)(5), 2090(A)(intro. para) and (2), (B), (C), and (D), 2091(A)(intro. para), (1)(a)(iii) and (b), and (3), (B), and (C), 2092(D), 2093(C), (D)(1), and (E)(1)-(3), 2098(A), (B), and (C)(2), and 2099; Adds R.S. 22:2083(B)(3) and (C)(3), 2084(15), and 2092(E); Repeals R.S. 22:2084(8)(a))