

2020 Regular Session

SENATE BILL NO. 71

BY SENATOR SMITH

AUTOMOBILE INSURANCE. Provides for the Louisiana Automotive Insurance Plan.
(1/1/21)

1 AN ACT

2 To amend and reenact R.S. 22:1475 and to repeal R.S. 32:1043, relative to the Louisiana
3 Automobile Insurance Plan; to provide for motor vehicle policies issued in
4 compliance with the Plan; to repeal certain duplicative provisions regarding residual
5 market plans in the Motor Vehicle Safety Responsibility Law; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1475 is hereby amended and reenacted to read as follows:

9 ~~§1475. Assigned risks; governing committee of the Louisiana Automotive Insurance~~
10 ~~Plan~~

11 ~~A. With respect to casualty insurance to which this Subpart applies,~~
12 ~~agreement may be made among insurers with respect to the equitable apportionment~~
13 ~~among them of insurance which may be afforded applicants who are in good faith~~
14 ~~entitled to, but who are unable to procure such insurance through ordinary methods,~~
15 ~~and such insurers may agree among themselves on the use of reasonable rate~~
16 ~~modifications for such insurance, such agreements and rate modifications to be~~
17 ~~subject to the approval of the commissioner of insurance. No domestic insurance~~

1 company shall be denied servicing carrier status. After consultation with insurance
 2 companies authorized to issue motor vehicle insurance in this state, the
 3 commissioner of insurance shall approve a reasonable plan, the Louisiana
 4 Automobile Insurance Plan, which shall function exclusively as a residual
 5 market mechanism, to applicants who are in good faith entitled to, but are
 6 unable to, procure such insurance through ordinary means, for the purpose of
 7 insuring private passenger motor vehicles, commercial motor vehicles including
 8 garage liability insurance, and other motor vehicles.

9 B. The governing committee of the ~~assigned risks, or~~ "Louisiana Automobile
 10 Insurance Plan", referred to in this Section as the "plan" shall consist of the
 11 following nine members:

12 (1) ~~One member shall be the~~ The commissioner of insurance or his designee.

13 (2) One member designated by the commissioner of insurance.

14 (3) One member ~~shall be a representative~~ designated by the Louisiana
 15 Association of Fire and Casualty Insurance Companies.

16 (4) One member ~~shall be appointed~~ designated by the president of the
 17 Senate.

18 (5) One member ~~shall be appointed~~ designated by the speaker of the House
 19 of Representatives.

20 (6) ~~The remaining four~~ Four members ~~shall consist of representatives~~
 21 selected from and by the membership subject to ~~final~~ approval by the commissioner
 22 of insurance.

23 C. The plan may establish a Personal Automobile Insurance Procedure,
 24 referred to in this Section as "PAIP", to do the following:

25 (1) Cause to be issued policies of private passenger automobile insurance
 26 in the plan's name to eligible applicants, as described in Subsection A of this
 27 Section, and to provide policyholder and claim handling services.

28 (2) Allocate the operating results of the PAIP, profit or loss, to those
 29 subscribers that write private passenger motor vehicle insurance.

1 D. The plan may establish a Commercial Automobile Insurance
2 Procedure, referred to in this Section as "CAIP", to do the following:

3 (1) Appoint an insurance company or companies to act as a servicing
4 carrier to issue commercial automobile insurance policies to eligible applicants,
5 as described in Subsection A of this Section, and to provide policyholder and
6 claim handling services.

7 (2) Cause to be issued policies of commercial automobile insurance in the
8 plan's name to eligible applicants, as described in Subsection A of this Section,
9 and to provide policyholder and claim handling services.

10 (3) Allocate the operating results of the CAIP, profit or loss, to those
11 subscribers that write commercial motor vehicle insurance.

12 E. Any policy of insurance issued by the plan pursuant to the Personal
13 Automobile Insurance Procedure or the Commercial Automobile Insurance
14 Procedure shall be recognized as if issued by an insurance company authorized
15 to issue insurance in this state.

16 F. Every form of a policy, endorsement, rider, manual of classification,
17 rules, and rates, every rating plan, and every modification of any of them
18 proposed to be used by the plan shall be filed and approved by the
19 commissioner of insurance.

20 G. All insurance companies writing insurance for private passenger
21 motor vehicles, commercial motor vehicles, and other motor vehicles in this
22 state shall be subscribers to the plan and share in the administrative expenses
23 for the operation of the plan based on a subscriber fee and an assessment based
24 on the market share of premiums.

25 H. Any applicant for any policy, any person insured under any such
26 policy, and any insurance company affected may appeal to the commissioner of
27 insurance from any ruling or decision of the manager or the governing
28 committee of the plan to operate the plan. Any person aggrieved by an order or
29 act of the commissioner of insurance may, within ten days after receipt of

1 written notice of the order or act, file a petition in the Nineteenth Judicial
 2 District Court or in the district court of the domicile of the aggrieved person,
 3 for a review of the order or action. The court shall summarily hear the petition
 4 and make the appropriate order or decree.

5 I. The exceptions contained under the provisions of R.S. 32:1041(A) shall
 6 apply to the Louisiana Automobile Insurance Plan functioning as a residual
 7 market mechanism.

8 Section 2. R.S. 32:1043 is hereby repealed.

9 Section 3. This Act shall become effective on January 1, 2021.

The original instrument was prepared by Thomas L. Tyler. The following digest, which constitutes no part of the legislative instrument, was prepared by LG Sullivan.

DIGEST

SB Engrossed

2020 Regular Session

Smith

Present law, relative to rate making procedures and organizations, assigns risks under the La. Automobile Insurance Plan, and in an effort to provide applicants for casualty insurance coverage who are in good faith but unable to procure coverage through ordinary methods, authorizes casualty insurers to agree among themselves on the use of reasonable rate modifications for coverage but subject to approval of the commissioner of insurance. Provides that no domestic insurance company shall be denied servicing carrier status.

Proposed law requires the commissioner of insurance, after consulting with insurers authorized to issue motor vehicle insurance, to approve a reasonable plan, known as the Louisiana Automobile Insurance Plan (Plan), which is to function exclusively as a residual market mechanism, for those good-faith applicants unable to procure coverage through ordinary means in order to insure private passenger motor vehicles, commercial motor vehicles including garage liability insurance, and other motor vehicles.

Present law provides that the governing committee of the assigned risks or the La. Automobile Insurance Plan consists of the following nine members:

- (1) The commissioner of insurance, or his designee.
- (2) One member designated by the commissioner of insurance.
- (3) One member representing the La. Association of Fire & Casualty Insurance Companies.
- (4) One member appointed by the president of the Senate.
- (5) One member appointed by the speaker of the House.
- (6) Four members selected from and by the membership subject to approval by the commissioner of insurance.

Proposed law retains these provisions in present law.

Proposed law creates a Personal Automobile Insurance Procedure (PAIP) to do the following:

- (1) Cause to be issued policies of private passenger automobile insurance in the Plan's name to eligible applicants, and to provide policyholder and claim handling services.
- (2) Allocate the operating results of the PAIP, profit or loss, to those subscribers that write private passenger motor vehicle insurance.

Proposed law also creates a Commercial Automobile Insurance Procedure (CAIP) to do the following:

- (1) Appoint a company or companies to act as a servicing carrier to issue commercial automobile insurance policies to eligible applicants and to provide policyholder and claim handling services.
- (2) Cause to be issued policies of commercial automobile insurance in the Plan's name to eligible applicants and to provide policyholder and claim handling services.
- (3) Allocate the operating results of the CAIP, profit or loss, to those subscribers that write commercial motor vehicle insurance.

Proposed law requires that any policy issued pursuant to the PAIP or the CAIP be recognized as if issued by an insurance company authorized to issue policies in this state. Requires that every form of a policy, endorsement, rider, manual of classification, rules, and rates, every rating plan and every modification of any of them proposed to be used by the Plan be filed and approved by the commissioner of insurance.

Proposed law requires that all companies writing insurance for private passenger motor vehicles, commercial motor vehicles, and other motor vehicles in this state be subscribers to the Plan and share in the administrative expenses for the operation of the Plan based on a subscriber fee and an assessment based on the market share of premiums.

Allows any applicant for any policy, any person insured under a policy, and any insurance company affected to appeal to the commissioner from any ruling or decision of the manager or the governing committee of the Plan to operate the Plan. Authorizes any person aggrieved by an order or act of the commissioner to file a petition, within ten days after receipt of written notice of the order or act, in the 19th JDC or in the district court of the domicile of the aggrieved person, for a review of the order or action. Requires the court to summarily hear the petition and make the appropriate order or decree.

Present law, the Motor Vehicle Safety and Responsibility Law, does not apply to any motor vehicle owned by the United States, this state or any political subdivision or municipality in this state, a bona fide organized public volunteer fire department which owns and operates those specially equipped motor vehicles for fire fighting purposes, nor, except for other specific present law, with respect to any motor vehicle which is subject to the jurisdiction of the Louisiana Public Service Commission, or to any motor vehicle subject to registration under the single state registration for motor carriers authorized by present federal law, or as otherwise permitted by present federal law, or to carriers of persons operating over specified routes with fixed termini and predominantly under franchises or indeterminate permits granted by an incorporated municipality and who are subject to the regulatory jurisdiction of such municipality.

Proposed law makes present law exceptions applicable to proposed law.

Effective January 1, 2021.

(Amends R.S. 22:1475; repeals R.S. 32:1043)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Repeal provisions in present law to provide consistency.
2. Change effective date.
3. Provide exceptions.