

2022 Regular Session

SENATE BILL NO. 412

BY SENATOR TALBOT

INSURERS. Provides for the Insure Louisiana Incentive Program. (8/1/22)

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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

1 storms, many insurers have substantially reduced their participation in the voluntary
2 market for residential and commercial property insurance. With fewer insurers in the
3 voluntary market, competitive pressure on premium rates is reduced. Current
4 underwriting practices have resulted in a substantial increase in the number of
5 Louisiana property owners forced to obtain their property insurance coverage or their
6 coverage for the wind peril from Louisiana Citizens Property Insurance Corporation
7 (~~Citizens~~), the state insurer of last resort. ~~As a result of the 2005 storms, Citizens has~~
8 ~~a substantial deficit that currently is and must be funded by assessments against~~
9 ~~insurers and policyholders. The decline in the voluntary insurance market~~
10 ~~substantially increases Citizens' exposure, thereby threatening to worsen its financial~~
11 ~~condition.~~ Increased premiums and assessments make property insurance coverage
12 unaffordable for some property owners, forcing them to sell or abandon their
13 residential or commercial properties or preventing them from restoring storm-
14 damaged properties, causing some residents to leave or fail to return to the state. The
15 availability of property insurance at reasonable cost is essential to the economy of
16 the state. Owners cannot invest in and lenders will not finance the construction and
17 ownership of residential and commercial buildings without adequate property
18 insurance protection. The state has a vital interest in fostering the availability of
19 property insurance at reasonable cost.

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

28 C. It is ~~hereby declared by the~~ **The** legislature **hereby declares** that assuring
29 an adequate and affordable market for insurance for both residential and commercial

1 properties in this state is essential to the economic viability of the state and its
2 citizens, the assurance of an adequate and stable tax base for the state and its political
3 subdivisions, and the health, welfare, and safety of its citizens. Accordingly, the
4 establishment of the Insure Louisiana Incentive Program implemented through
5 public-private partnerships is declared and demonstrated to be an essential public
6 function and public purpose.

7 §2363. Cooperative endeavors; grants; regulations

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

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

19 §2364. Implementation; grant limitations

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

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

29 C. ~~In the event that~~ **If** all monies in the fund are not allocated in response to

1 the first invitation for grant applications, ~~then~~ the commissioner ~~shall~~ **may** issue a
2 second invitation for grant applications. In the second invitation, the commissioner
3 shall not allocate individual grants **of** less than two million dollars nor in excess of
4 ten million dollars, but insurers who have been allocated a grant in response to the
5 first invitation may apply for an additional grant up to the ten million dollar limit. ~~In~~
6 ~~the event that~~ **If** all monies in the fund are not allocated in response to the second
7 invitation for grant applications, ~~then~~ the commissioner ~~shall~~ **may** issue a third
8 invitation for grant applications. In the third invitation, the commissioner shall not
9 allocate individual grants **of** less than two million dollars nor in excess of ten million
10 dollars, but insurers who have been allocated a grant in response to the first or
11 second invitation may apply for an additional grant up to the ten million dollar limit.

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

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

28 F. Prior to the award of any grant pursuant to the provisions of this Chapter,
29 ~~such~~ **the** grant shall be subject to the review and approval of the Joint Legislative

1 Committee on the Budget. The use of grant funds and unexpended and
2 unencumbered monies pursuant to the provisions of Subsection D of this Section
3 shall not be subject to review and approval of the Joint Legislative Committee on the
4 Budget.

5 §2365. Minimum capital requirements

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

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

13 §2366. Satisfactory prior experience

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

17 §2367. Authorized insurers

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

25 §2368. Matching capital fund grants

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

29 B. Matching capital fund grants authorized under this Chapter shall match

1 ~~such~~ **the** newly allocated insurer capital funds at a ratio of one dollar of state capital
2 grant funds to one dollar of allocated insurer capital funds.

3 §2369. Net written premium requirements

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

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

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

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

1 Citizens Property Insurance Corporation, and at least fifty percent of such
 2 policyholders shall have property located in the parishes included in the federal Gulf
 3 Opportunity Zone Act of 2005 in Louisiana. Insurers ~~must~~ **shall** maintain this net
 4 written premium ratio over five years to fully earn the matching capital fund grant
 5 ~~as outlined in R.S. 22:3310~~ **in accordance with R.S. 22:2370.**

6 E.(1) The commissioner shall promulgate rules pursuant to the
 7 Administrative Procedure Act, R.S. 49:950 et seq., to establish procedures to monitor
 8 the net written premium of insurers receiving any grant under this Chapter **and** to
 9 ensure ~~that the insurer is in~~ compliance with the provisions of this Section. These
 10 rules shall include provisions for the return of grant money to the state, on a pro rata
 11 basis, for failure to meet the requirements of this Section. Notwithstanding the
 12 provisions of R.S. 22:2370 to the contrary, the commissioner shall seek the return of
 13 unearned grant money from any insurer who has not ~~been in compliance~~ **complied**
 14 with **the provisions of** this Section for five consecutive years commencing on
 15 ~~January 1, 2009~~ **January 1, 2024**, and ending on ~~December 31, 2013~~ **December 31,**
 16 **2028.**

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

25 (b) Grants shall also be made under **the provisions of** this Paragraph to any
 26 insurer that was forced to reduce coverage, or drop coverage entirely; on existing
 27 dwellings in order that the insurer maintain its financial stability or solvency. ~~Such~~
 28 A grant **made under this Subparagraph** shall be contingent on the insurer
 29 reinstating such former coverage or better coverage on the existing dwellings.

1 §2370. Earned capital

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

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

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

15 D. In the event of insolvency of an insurer, the **Louisiana Insurance**
16 **Guaranty Association shall have no** obligation to repay matching capital fund
17 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.

DIGEST

SB 412 Original

2022 Regular Session

Talbot

Present law creates the Insure Louisiana Incentive Program (program).

Present law provides Louisiana is experiencing a crisis regarding the availability and affordability of insurance for residential and commercial properties from the catastrophic losses in 2005 from hurricanes Katrina and Rita. Provides underwriting practices have resulted in property owners having to obtain property insurance or coverage for wind peril from Louisiana Citizens Property Insurance Corporation (Citizens). Provides Citizens has a substantial deficit as a result of those storms and requires both insurers and policyholders to be charged assessments to fund Citizens deficit. Present law provides some property owners were forced to sell or abandon their properties or they have been prevented from repairing their storm-damaged properties, and some residents have left the state and have failed to return. Provides Louisiana has a vital interest in fostering the availability of property insurance at a reasonable cost.

Proposed law retains present law but changes the year from "2005" to "2020 and 2021" and changes the names of the hurricanes from "Katrina and Rita" to "Laura, Delta, Zeta, and Ida", and deletes that insurers and policyholders are required to be assessed to fund the

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 of \$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)