

2022 Regular Session

SENATE BILL NO. 402

BY SENATOR ABRAHAM

COURTS. Provides for special masters in certain civil actions arising within a parish included in a major disaster declaration. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 13:4165(F)(7) and to enact R.S. 13:4165(F)(9) and (10), relative  
3 to courts and judicial procedure; to provide for the appointment, duties, powers, and  
4 compensation of special masters; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 13:4165(F)(7) is hereby amended and reenacted and R.S.  
7 13:4165(F)(9) and (10) are hereby enacted to read as follows:

8 §4165. Special masters; appointment; duties and powers; compensation

9 \* \* \*

10 F.(1) \* \* \*

11 (7) Any special master appointed **to serve in a major disaster area** pursuant  
12 to this Subsection may waive the appointment. Orders initially issued pursuant to this  
13 Subsection after ~~January~~ **July** 1, 2022, shall provide for an opt-out upon request of  
14 any party.

15 \* \* \*

16 **(9) Notwithstanding any provision of law to the contrary, any order**  
17 **issued pursuant to this Subsection shall be applicable to the successor in interest**

1 **to any party subject to the order, in the same manner as originally applicable**  
 2 **to the insured or insurer.**

3 **(10) A guaranty association may voluntarily participate in a mediation**  
 4 **initiated pursuant to a case management order six months after the guaranty**  
 5 **association assumes responsibility for the payment of covered claims pursuant**  
 6 **to an express order of the receivership court or pursuant to an order of**  
 7 **liquidation by the receivership court, or at such time prior to the expiration of**  
 8 **six months as the guaranty association in its sole discretion determines that it**  
 9 **has sufficient information to participate in a mediation. No participation by a**  
 10 **guaranty association in a mediation shall waive any rights afforded the**  
 11 **guaranty association under the provisions of R.S. 22:2051, et seq.**

12 Section 2. This Act shall become effective upon signature by the governor or, if not  
 13 signed by the governor, upon expiration of the time for bills to become law without signature  
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 16 effective on the day following such approval.

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The original instrument was prepared by Alan Miller. The following digest,  
 which does not constitute a part of the legislative instrument, was prepared  
 by Beth O'Quin.

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DIGEST

SB 402 Engrossed                      2022 Regular Session                      Abraham

Present law provides for the appointment of a special master in any civil action wherein complicated legal or factual issues are presented or wherein exceptional circumstances of the case warrant such appointment upon consent of all parties.

Present law provides that for causes of action arising from a disaster within a parish declared by the president of the United States to be subject to a major disaster declaration under federal law and certified for individual assistance in accordance with the provisions of federal rules, the judges with civil jurisdiction in any court of competent jurisdiction may en banc appoint one or more special masters for all causes of action related to first-party insurance property damage claims.

Present law authorizes any special master appointed pursuant to present law to waive the appointment.

Proposed law limits present law appointment waiver to special masters appointed to serve in a major disaster area.

Present law further requires orders initially issued pursuant to present law after January 1, 2022, to provide for an opt-out upon request of any party.

Proposed law extends the deadline provided for in present law from January 1, 2022, to July 1, 2022.

Proposed law requires that notwithstanding any provision of present law to the contrary, any order issued pursuant to present law be applicable to the successor in interest to any party subject to the order, in the same manner as originally applicable to the insured or insurer.

Proposed law authorizes a guaranty association can voluntarily participate in a mediation that is initiated pursuant to a case management order six months after the guaranty association assumes responsibility for the payment of the covered claim pursuant to an expressed order of the receivership court or pursuant to an order of liquidation by the receivership court, or at a time prior to the expiration of six months as the guaranty association in its sole discretion determines that it has sufficient information to participate in a mediation, but participation by the guaranty association in mediation can waive any rights it is afforded to under law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:4165(F)(7); adds R.S. 13:4165(F)(9) and (10))

#### Summary of Amendments Adopted by Senate

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

1. Provides for voluntary participation by a guaranty association.