

2023 Regular Session

SENATE BILL NO. 96

BY SENATOR TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURERS. Provides the Louisiana Insurance Guaranty Association and the Louisiana Citizens Property Corporation shall not be liable for certain property damage insurance claims. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 22:1973(F) and 2296 and to enact R.S. 22:1892(H), relative to
3 the Louisiana Insurance Guaranty Association and the Louisiana Citizens Property
4 Insurance Corporation; to provide immunity from any penalties awarded in regards
5 to property insurance claims; to provide exceptions; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1973(F) and 2296 are hereby amended and reenacted and R.S.
9 22:1892(H) is hereby enacted to read as follows:

10 §1892. Payment and adjustment of claims, policies other than life and health and
11 accident; vehicle damage claims; extension of time to respond to
12 claims during emergency or disaster; penalties; arson-related claims
13 suspension

14 * * *

15 **H. The Louisiana Insurance Guaranty Association, as provided in R.S.**
16 **22:2051 et seq., and the Louisiana Citizens Property Insurance Corporation, as**
17 **provided in R.S. 22:2291 et seq., shall not be liable for any damages including**

1 **any penalties awarded pursuant to the provisions of this Section.**

2 * * *

3 §1973. Good faith duty; claims settlement practices; cause of action; penalties

4 * * *

5 F. The **Louisiana** Insurance Guaranty Association ~~Fund~~, as provided in R.S.
6 22:2051 et seq., **and the Louisiana Citizens Property Insurance Corporation, as**
7 **provided in R.S. 22:2291 et seq.,** shall not be liable for any ~~special~~ damages
8 **including any penalties** awarded ~~under~~ **pursuant to** the provisions of this Section.

9 * * *

10 §2296. Immunity from liability

11 A. ~~There~~ **For any action taken in the performance of duties or**
12 **responsibilities under this Chapter, there** shall be no liability on the part of and
13 no cause of action of any nature shall arise against ~~the commissioner of insurance,~~
14 ~~or against the governing board of the Louisiana Citizens Property Insurance~~
15 ~~Corporation or anyone acting on behalf of the corporation or the plans, or against any~~
16 ~~servicing carrier or carriers, or against any assessable insurer, or against any~~
17 ~~participating insurance producer, or against the Department of Insurance or its~~
18 ~~representatives, for any action taken by them in the performance of their duties or~~
19 ~~responsibilities under this Chapter.~~ **any of the following:**

20 **(1) The commissioner.**

21 **(2) The Louisiana Citizens Property Insurance Corporation or its plans**
22 **or its agents, employees, or members of the governing board, or their designees.**

23 **(3) The department or its employees or representatives.**

24 **(4) Any service provider.**

25 **(5) Any assessable insurer.**

26 **(6) Any participating insurance producer.**

27 B. ~~Such~~ **The** immunity from liability **provided in this Section** ~~does~~ **shall** not
28 apply to **any of the following:**

29 (1) ~~Any of the persons or entities listed in Subsection A of this Section~~

1 **person** for any ~~willful~~ **intentional** tort or criminal act.

2 (2) The ~~corporation~~, **corporation** or insurance producers placing business
3 with one of the ~~plans~~, **plans** for breach of any contract or agreement pertaining to
4 insurance coverage.

5 **(3) The corporation for any supervisory or regulatory action,**
6 **examination, or audit taken by the commissioner of insurance.**

7 ~~(3)~~**(4)** The corporation with respect to issuance or payment of debt.

8 ~~(4)~~**(5)** Any assessable insurer with respect to any action to enforce ~~such the~~
9 insurer's obligations to the corporation under this Chapter.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Beth O'Quin.

DIGEST

SB 96 Engrossed

2023 Regular Session

Talbot

Present law exempts the Louisiana Insurance Guaranty Association Fund from liability for special damages awarded for a property damage insurance claim under present law.

Proposed law changes "special damages" to ""damages" and adds any penalties awarded under present law. Proposed law adds the Louisiana Citizens Property Insurance Corporation (corporation) to the exemption.

Present law provides exceptions from immunity if a person commits a tort or criminal act, or the corporation, or its producers breach any insurance contracts or agreements, or the corporation fails to issue or pay debts, or an insurer's action fails to enforce any obligations under law.

Proposed law retains present law but adds the corporation is liable for any supervisory or regulatory action, examination, or audit that is taken by the commissioner.

Present law provides an insurer is subject to penalties, attorney fees, and cost when a property damage insurance claim is not paid within the time periods set forth by law and the insurer's failure to pay was arbitrary, capricious, or without probable cause.

Present law requires insurers pay court costs, attorney fees, or penalty fees for property damage insurance claims not paid within the time period required by law.

Proposed law retains present law but adds an exclusion for the Louisiana Insurance Guaranty Association and the Louisiana Citizens Property Insurance Corporation from the penalties provided under present law.

Effective August 1, 2023.

(Amends R.S. 22:1973(F) and 2296; adds R.S. 22:1892(H))

Summary of Amendments Adopted by Senate

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

1. Makes technical changes.