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## DIGEST

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HB 383 Reengrossed

2023 Regular Session

Amedee

**Abstract:** Requires insurers subject to the La. Insurance Guaranty Assoc. Law to prepare a data transfer plan in the event an order of rehabilitation or liquidation is issued, provides for the review and authority of the commissioner of insurance relative to such plans, and exempts the plans from production and the Public Records Law.

Proposed law requires each insurer subject to the La. Insurance Guaranty Assoc. Law (R.S. 22:2051 et seq.) to prepare, implement, and maintain a data transfer plan. Requires the insurer to file the plan with the commissioner upon the occurrence of a company-action level event as defined in present law (R.S. 22:613).

Proposed law requires a data transfer plan to include the manner, methods, and formats in which the insurer maintains and preserves its claims and underwriting records; the process by which the insurer will transfer its records to the La. Insurance Guaranty Assoc. (LIGA) if an order of rehabilitation or liquidation is issued pursuant to present law (R.S. 22:2008); and any other information deemed necessary by the commissioner.

Proposed law provides that if the insurer utilizes a third party to maintain its records, the insurer is required to include in its plan the process by which the third party will provide the insurer's claims and underwriting records to LIGA without delay.

Proposed law requires the commissioner to review each data transfer plan to determine compliance with proposed law and to consult with LIGA to confirm that the data transfer plan will integrate with its manner and means of maintaining records from insurers that are subject to orders of rehabilitation or liquidation.

Proposed law authorizes the commissioner to examine the records and operations of insurers to determine compliance with proposed law; direct an insurer to test and modify its data transfer plan; require an insurer to prefund the services required to initiate a data transfer; require an insurer to take action to remedy substantial noncompliance with proposed law; and waive compliance with proposed law upon the insurer's written request that establishes that the issues causing a company-action level event will be resolved and with the concurrence of LIGA.

Proposed law requires an insurer that remains in a company-action level event to update and file its data transfer plan with the commissioner at intervals the commissioner deems appropriate.

Proposed law subjects data transfer plans to the commissioner's confidentiality provisions in present

law (R.S. 22:1983(J)). Requires an insurer to submit a data transfer plan and any related information used to test the processes in the plan to LIGA or any other guaranty association if, prior to the guaranty association receiving the information, the parties agree, in writing, to treat the information received as confidential, unless the insurer grants prior written consent to share the information with a guaranty association.

Proposed law specifies that data transfer plans and information produced to the commissioner pursuant to data transfer plans are not subject to public records inspection, examination, copying, or reproduction pursuant to the Public Records Law and that each data transfer plan is a proprietary, confidential business record and not subject to production, including subpoena. Proposed law provides an exception in the Public Records Law for data transfer plans and information produced to the commissioner pursuant to data transfer plans.

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

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:572.2)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Authorize the commissioner to waive compliance with proposed law upon an insurer's written request that establishes that the issues causing a company-action level event will be resolved and with the concurrence of LIGA.
2. Subject a data transfer plan and related information produced to the commissioner to the commissioner's requirements of confidentiality in present law (R.S. 22:1983(J)).
3. Require the commissioner to provide the data transfer plan and related information used to test the processes to LIGA or any other guaranty association if, prior to the guaranty association receiving the information, the commissioner and the guaranty association agree, in writing, to hold that information with the same confidential treatment required of the commissioner in present law (R.S. 22:1983(J)), unless the insurer grants prior written consent to share the information with a guaranty association.
4. Make technical changes.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Specify that LIGA is the recipient of the insurer's claims and underwriting records transferred from an insurer's third-party vendor.
2. Include information produced to the commissioner pursuant to a data transfer plan in the exception from the Public Records Law.

3. Clarify that among the information provided by the commissioner to a guaranty association is that information used to test the processes in the plan.