

2023 Regular Session

HOUSE BILL NO. 383

BY REPRESENTATIVE AMEDEE

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:572.2, relative to insurance;  
3 to require certain insurers to provide for a data transfer plan; to provide for the  
4 minimum content of the plan; to require the filing of the plan with the commissioner  
5 of insurance under certain circumstances; to provide for the powers and duties of the  
6 commissioner relative thereto; to provide relative to the nature of data transfer plans;  
7 to exempt data transfer plans and information produced pursuant to a data transfer  
8 plan from the Public Records Law; to provide for an effective date; and to provide  
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 22:572.2 is hereby enacted to read as follows:

12 §572.2. Louisiana Property and Casualty Guaranty Fund Data Transfer Plan

13 A. Each insurer that is subject to the Louisiana Insurance Guaranty  
14 Association Law shall prepare, implement, and maintain a data transfer plan. Upon  
15 the occurrence of a company-action level event, as defined in R.S. 22:613, the  
16 insurer shall file the data transfer plan with the commissioner.

17 B.(1) The data transfer plan required by Subsection A of this Section shall  
18 outline specific procedures, actions, and safeguards that at minimum include all of  
19 the following:

20 (a) The manner, methods, and formats in which the insurer maintains and  
21 preserves its claims and underwriting records.

22 (b) The process by which the insurer will transfer all of its claims and  
23 underwriting records to the Louisiana Insurance Guaranty Association if an order of  
24 rehabilitation or liquidation is issued pursuant to R.S. 22:2008.

1                    (c) Any other information deemed necessary by the commissioner.

2                    (2) If the insurer utilizes a third-party vendor to maintain and preserve its  
3                    claims and underwriting records, the insurer shall include in its data transfer plan the  
4                    process by which the third-party vendor will provide the insurer's claims and  
5                    underwriting records without delay to the Louisiana Insurance Guaranty Association  
6                    if an order of rehabilitation or liquidation is issued pursuant to R.S. 22:2008.

7                    C. The commissioner shall review each data transfer plan submitted pursuant  
8                    to Subsection A of this Section to determine compliance with the requirements of  
9                    this Section and consult with the Louisiana Insurance Guaranty Association to  
10                   confirm that the data transfer plan will integrate with the Louisiana Insurance  
11                   Guaranty Association's manner and means of maintaining records received from  
12                   insurers that are subject to orders of rehabilitation or liquidation.

13                   D. The commissioner may do all of the following:

14                   (1) Investigate and examine the records and operations of insurers to  
15                   determine if each insurer has implemented and complied with the data transfer plan  
16                   requirements of this Section.

17                   (2) Direct an insurer to test the processes set forth in its data transfer plan to  
18                   ensure that the data can be effectively transferred.

19                   (3) Direct an insurer to modify its data transfer plan to comply with the  
20                   requirements of this Section.

21                   (4) Require an insurer to prefund the services required to initiate a data  
22                   transfer.

23                   (5) Require an insurer to take action to remedy substantial noncompliance  
24                   with the requirements of this Section regarding data transfer plans.

25                   (6) Waive compliance with the requirements of this Section upon an insurer's  
26                   written request that establishes that the issues giving rise to a company-action level  
27                   event will be resolved and with the concurrence of the Louisiana Insurance Guaranty  
28                   Association.

1                   E. An insurer that remains in a company-action level event, as defined in  
 2                   R.S. 22:613, shall update and file its data transfer plan with the commissioner at  
 3                   intervals the commissioner deems appropriate.

4                   F.(1) Data transfer plans and information produced to the commissioner  
 5                   pursuant to data transfer plans shall not be public records or subject to inspection,  
 6                   examination, copying, or reproduction pursuant to the Public Records Law.

7                   (2) Each data transfer plan is a proprietary and confidential business record  
 8                   and shall not be subject to production, including subpoena. The data transfer plan  
 9                   and any information produced to the commissioner pursuant to a data transfer plan  
 10                   is subject to the provisions of R.S. 22:1983(J).

11                   (3) The commissioner shall provide the data transfer plan and any  
 12                   information used to test the processes in the plan to the Louisiana Insurance  
 13                   Guaranty Association or any other guaranty association if, prior to the guaranty  
 14                   association receiving the information, the commissioner and the guaranty association  
 15                   agree, in writing, to hold that information with the same confidential treatment  
 16                   required of the commissioner by R.S. 22:1983(J), unless the insurer grants prior  
 17                   written consent to share the information with a guaranty association.

18                   Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

19                   §4.1. Exceptions

20   \*       \*       \*

21                   B. The legislature further recognizes that there exist exceptions, exemptions,  
 22                   and limitations to the laws pertaining to public records throughout the revised  
 23                   statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
 24                   limitations are hereby continued in effect by incorporation into this Chapter by  
 25                   citation:

26   \*       \*       \*

27                   (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,  
 28                   572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1,  
 29                   691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, 1008, 1019.2, 1203,  
 30                   1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1660.7, 1723,

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293,  
2           2303, 2508

3    \*           \*           \*

4           Section 3. This Act shall become effective upon signature by the governor or, if not  
5           signed by the governor, upon expiration of the time for bills to become law without signature  
6           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
7           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
8           effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_