

Regular Session, 2014

HOUSE BILL NO. 665

BY REPRESENTATIVE SEABAUGH

INSURANCE: Relative to liability limits

1 AN ACT

2 To enact R.S. 22:1272, relative to liability limits; to provide that property and casualty
3 insurance policies may not reduce the limits of liability by the cost of defense; and
4 to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. 22:1272 is hereby enacted to read as follows:

7 §1272. Defense costs within the limit of liability; prohibition; waiver

8 A.(1) No policy or contract of insurance shall include defense costs that
9 would reduce the limit of liability set forth in the policy or contract unless waived
10 by the commissioner as provided in this Subsection.

11 (2) The commissioner shall not waive the prohibition in this Subsection for
12 the following types of insurance coverage:

13 (a) All personal lines.

14 (b) Medical malpractice.

15 (c) Commercial vehicle.

16 (d) Commercial general liability.

17 (3) The commissioner may waive the prohibition in this Subsection for the
18 following types of insurance coverage:

19 (a) Professional liability other than medical malpractice.

20 (b) Directors' and officers' liability.

1 (c) Errors and omissions liability.

2 (d) Pollution liability.

3 (e) Employment practices liability.

4 (f) Cyber and technical liability.

5 (4) The commissioner may waive the prohibition in this Subsection for other
6 types of insurance, except those listed in Paragraph (2) of this Subsection, after a
7 consideration of relevant factors, including but not limited to, the level of market
8 competition, the nature and design of the product, and the availability of insurance
9 coverage.

10 B. Any policy or contract of insurance issued pursuant to a waiver is subject
11 to the following requirements:

12 (1) Defense costs that reduce the limit of liability shall only include
13 reasonable attorney's fees and expenses directly connected to the insurer's defense
14 of a specific liability claim on behalf of an insured and any other litigation expenses
15 directly arising from the defense of a specific liability claim. Defense costs shall not
16 include overhead costs, adjusting expenses, or other expenses incurred by the insurer
17 in the ordinary course of business. The commissioner may further define or limit
18 defense costs for all or specific types of insurance coverage by issuing rules and
19 regulations pursuant to the Administrative Procedure Act.

20 (2) The inclusion of defense costs in the limit of liability shall not exhaust
21 the entire amount of liability coverage. The commissioner may limit the amount of
22 defense costs that reduce the limit of liability or set a minimum amount of liability
23 coverage from which defense costs shall not be deducted.

24 (3) Any policy or contract of insurance shall include a conspicuous notice
25 indicating that the contract contains defense costs within the limit of liability. The
26 commissioner may prescribe the form, content, and placement of the notice. Unless
27 otherwise prescribed by the commissioner, the notice shall be prominently printed
28 or stamped on the policy or contract in bold and not less than ten-point type.

1 D. The commissioner may issue rules and regulations pursuant to the
2 Administrative Procedure Act to implement this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Seabaugh

HB No. 665

Abstract: Prohibits insurers from reducing the limits of liability in an insurance policy by the cost of defense.

Proposed law prohibits insurers from issuing a liability policy that includes reducing the policy's limits of liability by the cost to defend a claim.

Proposed law prevents the commissioner of insurance from waiving the prohibition for all personal lines, medical malpractice, commercial vehicle, and commercial general liability, but allows the commissioner to waive the prohibition for other types of coverage.

Proposed law provides the requirements for any policy or contract of insurance issued pursuant to a waiver.

Proposed law authorizes the commissioner of insurance to promulgate rules in accordance with the APA.

(Adds R.S. 22:1272)