

2015 Regular Session

HOUSE BILL NO. 511

BY REPRESENTATIVE SEABAUGH

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

INSURANCE COMMISSIONER: Provides for appointment of counsel in matters related to rehabilitation, liquidation, or conservation of insurers, and for the distribution of receivership assets by the commissioner of insurance

1 AN ACT

2 To amend and reenact R.S. 22:2018 and 2034(G), relative to insurance receiverships; to
3 provide for the appointment of counsel in matters related to rehabilitation,
4 liquidation, or conservation of insurers; to provide for the distributions of assets by
5 the commissioner subject to approval of the court; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:2018 and 2034(G) are hereby amended and reenacted to read as
8 follows:

9 §2018. Appointment of assistants

10 A. For the purpose of this Chapter, and in connection with proceedings
11 involving only domestic insurers, the commissioner of insurance shall have the
12 power to appoint one or more special deputies as his agent or agents and to employ
13 such clerks or assistants he deems necessary, and to give each of such persons such
14 powers to assist him as he may consider wise. The compensation of every such
15 special deputy, agent, clerk, or assistant shall be fixed, and all expenses of taking
16 possession of the property of the insurer and the administration thereof shall be
17 approved; by the commissioner of insurance, all subject to the approval of the court,
18 and shall be paid out of the funds or assets of the insurer.

19 B. The attorney general shall provide representation for the commissioner
20 of insurance in all matters covered pursuant to this Chapter in which the assets of an
21 insurer's estate meet or exceed one million dollars. The attorney general may, ~~if he~~

1 ~~deems it appropriate~~, appoint special counsel to provide this representation. The
2 attorney general shall submit ~~his~~ a certification of expenses and legal fees, both for
3 staff and special counsel, to the court for approval. Upon approval by the court,
4 these amounts shall be paid out of the funds or assets of the insurer.

5 C. ~~Attorneys~~ Special counsel employed by the attorney general for purposes
6 of Subsection B of this Section shall be selected and named by the commissioner of
7 insurance, ~~with~~ subject to the approval of the attorney general, ~~and~~ who shall
8 ~~perform~~ supervise the performance of their duties ~~under the supervision of the~~
9 ~~attorney general~~.

10 D. The commissioner of insurance may employ staff counsel of the
11 department of insurance or special counsel to provide representation in all matters
12 covered pursuant to this Chapter in which the assets of an insurer's estate are less
13 than one million dollars. The employment of special counsel pursuant to this
14 Subsection shall be subject to the approval of the attorney general.

15 * * *

16 §2034. Distribution of assets; priorities; unpaid dividends

17 * * *

18 G. If subsequent to an adjudication of insolvency, pursuant to R.S. 22:2027,
19 a surplus is found to exist after the payment in full of all allowed claims which have
20 been duly filed prior to the last date fixed for the filing thereof and the setting aside
21 of a reserve for all costs and expenses of the proceeding, the court shall set a new
22 date for the filing of claims. After the expiration of such new date, the solvency of
23 such insurer shall be reexamined and if such insurer is then found to be solvent on
24 the basis of all claims then filed and allowed, any surplus existing shall be distributed
25 by the commissioner of insurance subject to approval by the court, which shall not
26 unreasonably withhold such approval.

27 * * *

28 Section 2. The provisions of Section 1 of this Act shall have retroactive application
29 to all pending receivership proceedings.

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

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)]

HB 511 Original

2015 Regular Session

Seabaugh

Abstract: Provides for the appointment of counsel in the rehabilitation, liquidation, or conservation of insurers, and for the distribution of surplus receivership assets by the commissioner of insurance.

Present law provides for representation of the commissioner of insurance by the attorney general in connection with the rehabilitation, liquidation, or conservation of domestic insurers in receivership.

Proposed law retains present law, but adds that the representation occurs when the assets of the insurer's estate meet or exceed \$1 million.

Proposed law allows the commissioner of insurance to employ staff counsel or special counsel to provide representation when the assets of the insurer's estate are less than \$1 million.

Present law provides for the distribution by the court of any surplus found to exist after the distribution of the assets of an insurer adjudicated insolvent.

Proposed law provides for the distribution by the commissioner of insurance, subject to approval by the court, of any surplus found to exist after the distribution of the assets of an insurer adjudicated insolvent.

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

(Amends R.S. 22:2018 and 2034(G))