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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 119 Original

2020 Regular Session

Robert Mills

Proposed law prohibits a policy or contract of insurance from including defense costs that would reduce the limit of liability set forth in the policy or contract unless waived by the commissioner.

Proposed law mandates that the commissioner shall not waive the prohibition in proposed law for certain types of insurance coverage, including personal lines, medical malpractice, commercial vehicle, and commercial general liability.

Proposed law allows the commissioner to waive the prohibition in proposed law for certain types of insurance coverage, including professional liability other than medical malpractice, directors' and officers' liability, errors and omissions liability, pollution liability, employment practices liability, and cyber and technical liability. Allows the commissioner to waive the prohibition in proposed law for other types of insurance, except those in the mandatory list, after a consideration of the level of market competition, the nature and design of the product, the availability of insurance coverage, and other relevant factors.

Proposed law places limitations on any policy or contract of insurance issued pursuant to a waiver.

Proposed law specifies that defense costs that reduce the limit of liability shall include only expenses directly related to the insurer's defense of a specific claim such as reasonable attorney fees and litigation expenses. Proposed law further specifies that defense costs that reduce the limit of liability shall not include overhead costs, adjusting expenses, or other expenses incurred in the ordinary course of business.

Proposed law requires any policy or contract of insurance to include a conspicuous notice on the policy declaration page indicating that the insurance policy or contract includes defense costs within the limit of liability.

Effective August 1, 2020.

(Adds R.S. 22:1272)