
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by LG Sullivan.

DIGEST

SB 495 Original

2020 Regular Session

Carter

Proposed law creates a private fund, called the Business Compensation Fund, to expedite certain property insurance claims, resolve disputes, and provide coverage for losses sustained as a result of the COVID-19 pandemic. Provides for contributions to and disbursements from the fund.

Proposed law requires an insurer choosing to participate in the fund to contribute to the fund the greater of \$50 million or 80% of the aggregate policy limits for that insurer's policies in force in La. during the gubernatorially declared pandemic emergency. Provides participants immunity from claims of bad faith brought by insureds seeking payments for claims for losses under proposed law. Requires an insurer to apply to participate within 60 days of the expiration of the emergency declaration.

Proposed law allows an insured to apply for a payment under proposed law if all of the following apply:

- (1) A policy for commercial loss in La. was in force during the gubernatorially declared pandemic emergency.
- (2) The insured sustained commercial income or revenue loss due to the COVID-19 threat.
- (3) The insured agrees to accept 80% of actual losses up to the policy limits in satisfaction of all claims for the income or revenue losses due to the COVID-19 pandemic.
- (4) The application is received by the commissioner within 90 days of the expiration of the emergency declarations.

Proposed law allows a fund participant to challenge a claim as fraudulent and to contest the amount of a claim but not to contest the issue of liability. Provides for private, binding arbitration with no right of appeal to settle any challenge. Requires the challenging participant shall pay the cost of the arbitration and if the claimant prevails in the arbitration, all of the claimant's costs of the arbitration, including attorney fees.

Proposed law requires the commissioner of insurance to provide forms for insurers and insureds to utilize proposed law, to collect the contributions to and disburse the payments from the fund, and to promulgate rules for the implementation of proposed law including the arbitration provisions.

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

(Adds R.S. 22:1272)