SLS 22RS-961 **ENGROSSED**

2022 Regular Session

SENATE BILL NO. 412

BY SENATOR TALBOT

INSURERS. Provides for the Insure Louisiana Incentive Program. (8/1/22)

AN ACT

To amend and reenact R.S. 22:2361 through 2370, relative to the Insure Louisiana Incentive Program; to provide for purposes and public purpose; to provide for administration and funding; to provide for cooperative endeavor agreements; to provide for matching grants; to provide for rulemaking; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:2361 through 2370 is hereby amended and reenacted to read as follows:

§2361. Short title

This Chapter shall be known as the "Insure Louisiana Incentive Program", ~~hereinafter~~ **and may be** referred to as the "program".

§2362. Purposes; public purpose

A. Louisiana currently is experiencing a crisis in the availability and affordability of insurance for residential and commercial properties. Louisiana property owners and their insurers sustained catastrophic losses in ~~2005~~ **2020 and 2021** from ~~Hurricanes Katrina and Rita~~ **hurricanes Laura, Delta, Zeta, and Ida**. As the result of their losses and their assessment of the risk of loss from future storms, many insurers have substantially reduced their participation in the voluntary market for residential and commercial property insurance. With fewer insurers in the voluntary market, competitive pressure on premium rates is reduced. Current underwriting practices have resulted in a substantial increase in the number of Louisiana property owners forced to obtain their property insurance coverage or their coverage for the wind peril from Louisiana Citizens Property Insurance Corporation ~~(Citizens)~~, the state insurer of last resort. ~~As a result of the 2005 storms, Citizens has a substantial deficit that currently is and must be funded by assessments against insurers and policyholders. The decline in the voluntary insurance market substantially increases Citizens' exposure, thereby threatening to worsen its financial condition.~~ Increased premiums and assessments make property insurance coverage unaffordable for some property owners, forcing them to sell or abandon their residential or commercial properties or preventing them from restoring storm-damaged properties, causing some residents to leave or fail to return to the state. The availability of property insurance at reasonable cost is essential to the economy of the state. Owners cannot invest in and lenders will not finance the construction and ownership of residential and commercial buildings without adequate property insurance protection. The state has a vital interest in fostering the availability of property insurance at reasonable cost.

B. The Insure Louisiana Incentive Program is adopted for the purpose of cooperative economic development and stability in Louisiana by encouraging additional insurers to participate in the voluntary property insurance market ~~in order~~ to ~~substantially~~ increase the availability of property insurance, ~~to substantially~~ increase competitive pressure on insurance rates, and ~~to substantially~~ reduce the volume of business written by the Louisiana Citizens Property Insurance Corporation, thereby offering a less expensive alternative to its policyholders and reducing Citizens' exposure to an increased deficit and future assessments.

C. ~~It is hereby declared by the~~ **<u>The</u>** legislature **<u>hereby declares</u>** that assuring an adequate and affordable market for insurance for both residential and commercial

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properties in this state is essential to the economic viability of the state and its citizens, the assurance of an adequate and stable tax base for the state and its political subdivisions, and the health, welfare, and safety of its citizens. Accordingly, the establishment of the Insure Louisiana Incentive Program implemented through public-private partnerships is declared and demonstrated to be an essential public function and public purpose.

§2363. Cooperative endeavors; grants; regulations

A. The commissioner ~~of insurance~~ is authorized to implement the essential public purpose of this Chapter through public-private partnerships executed through cooperative endeavors with authorized insurers. Such endeavors may include matching capital fund grants under the provisions of this Chapter.

B. The commissioner ~~of insurance~~ may grant matching capital funds to qualified property insurers in accordance with the requirements of this Chapter from the fund. The commissioner shall ~~adopt and~~ promulgate rules and regulations in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., governing the application process ~~and~~ award of grants, use of grant funds, reporting requirements and other regulations to assure compliance with and to carry out the purposes of the program.

§2364. Implementation; grant limitations

A. The commissioner ~~of insurance~~ shall ~~adopt and~~ promulgate rules and regulations to implement this program as soon as possible and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

B. When the program is ready for implementation, the commissioner shall issue a public invitation to insurers to submit grant applications. In the initial applications, the commissioner shall not allocate individual grants **of** less than two million dollars nor in excess of ten million dollars. In the initial allocation of grants only, the commissioner shall allocate twenty percent of the total amount of funds available for grants to domestic insurers.

C. ~~In the event that~~ **If** all monies in the fund are not allocated in response to the first invitation for grant applications, ~~then~~ the commissioner ~~shall~~ **may** issue a second invitation for grant applications. In the second invitation, the commissioner shall not allocate individual grants **of** less than two million dollars nor in excess of ten million dollars, but insurers who have been allocated a grant in response to the first invitation may apply for an additional grant up to the ten million dollar limit. ~~In the event that~~ **If** all monies in the fund are not allocated in response to the second invitation for grant applications, ~~then~~ the commissioner ~~shall~~ **may** issue a third invitation for grant applications. In the third invitation, the commissioner shall not allocate individual grants **of** less than two million dollars nor in excess of ten million dollars, but insurers who have been allocated a grant in response to the first or second invitation may apply for an additional grant up to the ten million dollar limit.

D. Once the commissioner has finalized all responses ~~from three separate invitations~~ for grant applications authorized under this Chapter, any unexpended and unencumbered monies in the fund and any matching capital fund grant funds that are not earned pursuant to R.S. 22:2370(A) shall ~~be used pursuant to the provisions of R.S. 22:2372~~ **revert to the state general fund**. ~~However, if less than thirty-five million dollars remains in the Insure Louisiana Incentive Fund after responses have been finalized to the three separate invitations for grant applications, then the remaining monies in the fund shall instead be used to accelerate payoff of the Unfunded Accrued Liability of the state retirement systems.~~

E. The total amount of funds available for this program is the amount appropriated or otherwise made available to the fund by the legislature. If the amount requested in grant applications exceeds the amount of funds available, the commissioner ~~of insurance~~ shall have the discretion to prioritize and allocate funds among insurers ~~deemed~~ **considered** eligible to participate in the program, considering the financial strength of each insurer and the potential for its business plan to improve the availability and affordability of property insurance in ~~Louisiana~~ **this state**.

F. Prior to the award of any grant pursuant to the provisions of this Chapter,

~~such~~ **the** grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The use of grant funds and unexpended and unencumbered monies pursuant to the provisions of Subsection D of this Section shall not be subject to review and approval of the Joint Legislative Committee on the Budget.

§2365. Minimum capital requirements

A. Grants shall be made only to insurers who satisfy minimum capital requirements as specified in the rules and regulations ~~adopted and~~ promulgated by the commissioner ~~of insurance~~, which shall include capital and surplus exceeding twenty-five million dollars, stable financial condition as shown by a satisfactory risk-based capital level, and an adequate risk-based reinsurance program.

B. In no event shall matching fund grants exceed twenty percent of an insurer's capital and surplus.

§2366. Satisfactory prior experience

As determined by the commissioner ~~of insurance~~, grants shall be made only to insurers with satisfactory prior experience in writing property insurance or to new insurers whose management has satisfactory prior experience in property insurance.

§2367. Authorized insurers

Although a ~~non-admitted insurer, including an approved unauthorized~~ **surplus lines** insurer~~,~~ may apply for a grant, the insurer ~~must become admitted and licensed~~ **shall obtain a certificate of authority** to do business in Louisiana before it may ~~actually~~ receive the grant funding. The commissioner ~~of insurance~~ may reallocate funds allocated to ~~such non-admitted~~ **surplus lines** insurer if ~~that insurer~~ **it** does not apply on a timely basis, as specified in the regulations, or is not approved ~~as an admitted and licensed insurer~~ **for a certificate of authority**.

§2368. Matching capital fund grants

A. The insurer shall make a commitment of capital of not less than two million dollars to write property insurance in ~~Louisiana~~ **this state** that complies with the requirements of R.S. 22:2369.

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B. Matching capital fund grants authorized under this Chapter shall match ~~such~~ **the** newly allocated insurer capital funds at a ratio of one dollar of state capital grant funds to one dollar of allocated insurer capital funds.

§2369. Net written premium requirements

A. "Net written premiums" means the total premiums, exclusive of assessments and other charges, paid by policyholders to insurers for policies that comply with **the provisions of** this Section, minus any return premiums or other premium credits due policyholders.

B. To comply with the requirements of this Chapter, the new property insurance written by the insurer who received a matching capital fund grant shall be residential, commercial, mono-line, or package property insurance policies in ~~Louisiana~~ **this state**, and ~~must~~ **shall** include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies. The net written premium requirements of this Section ~~will~~ **shall** be satisfied only by property insurance coverages reported on the Annual Statement State Page filed with the Department of Insurance under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

C. Insurers who receive the matching capital fund grants ~~must~~ **shall** write property insurance in ~~Louisiana~~ **this state** that complies with the requirements of this Section with net written premiums of at least a ratio of two dollars of premium for each dollar of the total of newly allocated insurer capital and the matching capital fund grant. Thus, if the insurer allocates two million dollars in capital and receives a matching capital fund grant of two million dollars, the insurer ~~must~~ **shall** write property insurance in ~~Louisiana~~ **this state** with net written premiums of at least eight million dollars.

D. In the first twenty-four months after receipt of matching capital fund grants insurers shall write at least fifty percent of the net written premium for policyholders whose property is located in the parishes included in the federal Gulf Opportunity Zone Act of 2005 in Louisiana. Twenty-five percent of the net written

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premium for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation, and at least fifty percent of ~~such~~ **the** policyholders shall have property located in the parishes included in the federal Gulf Opportunity Zone Act of 2005 in Louisiana. Insurers ~~must~~ **shall** maintain this net written premium ratio over five years to fully earn the matching capital fund grant ~~as outlined in R.S. 22:3310~~ **in accordance with R.S. 22:2370**.

E.(1) The commissioner shall promulgate rules pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., to establish procedures to monitor the net written premium of insurers receiving any grant under this Chapter **and** to ensure ~~that the insurer is in~~ compliance with the provisions of this Section. These rules shall include provisions for the return of grant money to the state, on a pro rata basis, for failure to meet the requirements of this Section. Notwithstanding the provisions of R.S. 22:2370 to the contrary, the commissioner shall seek the return of unearned grant money from any insurer who has not ~~been in compliance~~ **complied** with **the provisions of** this Section for five consecutive years commencing on ~~January 1, 2009~~ **January 1, 2024**, and ending on ~~December 31, 2013~~ **December 31, 2028**.

(2)(a) Notwithstanding the provisions of this Chapter to the contrary, rules and regulations promulgated by the commissioner pursuant to this Chapter shall provide that grants, made pursuant to a third invitation for grant applications, may be made to insurers providing coverage against damage to an existing dwelling. ~~The~~ **A** grant shall be made only as to those policies transferred from an existing dwelling to a new dwelling provided the risk of catastrophe associated with the new dwelling is the same as or no greater than the level of risk of catastrophe associated with the existing dwelling.

(b) Grants shall also be made under **the provisions of** this Paragraph to any insurer that was forced to reduce coverage, or drop coverage entirely~~,~~ on existing dwellings in order that the insurer maintain its financial stability or solvency. ~~Such~~ **A** grant **made under this Subparagraph** shall be contingent on the insurer reinstating such former coverage or better coverage on the existing dwellings.

§2370. Earned capital

A. An insurer who has received a matching capital fund grant under the provisions of this Chapter ~~is entitled to~~ **shall** earn the grant at the rate of twenty percent per year for each year in which the insurer maintains the net written premiums in compliance with the requirements of this Chapter, so that the insurer ~~can~~ **may** earn the entire grant in five years.

B. If any insurer fails to comply with the requirements of this Chapter at the end of any year of the grant, the commissioner ~~of insurance~~ shall have the option of granting an extension if the insurer shows promise of future compliance.

C. If the commissioner ~~of insurance~~ finds that an insurer has failed to comply with the statutory or regulatory requirements for the grant, the commissioner may declare the insurer in default. The insurer in default shall repay any matching capital fund grant funds that have not been earned under Subsection A of this Section, plus legal interest from the date of the commissioner's default declaration.

D. In the event of insolvency of an insurer, the **Louisiana Insurance Guaranty Association shall have no** obligation to repay matching capital fund grants ~~shall not be a liability of the Louisiana Insurance Guaranty Association~~.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.

DIGEST

SB 412 Engrossed 2022 Regular Session Talbot

Present law creates the Insure Louisiana Incentive Program (program).

Present law provides Louisiana is experiencing a crisis regarding the availability and affordability of insurance for residential and commercial properties from the catastrophic losses in 2005 from hurricanes Katrina and Rita. Provides underwriting practices have resulted in property owners having to obtain property insurance or coverage for wind peril from Louisiana Citizens Property Insurance Corporation (Citizens). Provides Citizens has a substantial deficit as a result of those storms and requires both insurers and policyholders to be charged assessments to fund Citizens deficit. Present law provides some property owners were forced to sell or abandon their properties or they have been prevented from repairing their storm-damaged properties, and some residents have left the state and have failed to return. Provides Louisiana has a vital interest in fostering the availability of property insurance at a reasonable cost.

Proposed law retains present law but changes the year from "2005" to "2020 and 2021" and changes the names of the hurricanes from "Katrina and Rita" to "Laura, Delta, Zeta, and Ida", and deletes that insurers and policyholders are required to be assessed to fund the deficit of Citizens.

Present law requires the commissioner of insurance (commissioner) issue a public invitation to insurers to submit grant applications upon the implementation of the program and prohibits the commissioner from allocating individual grants less than $2 million nor in excess of $10 million in the initial applications, and requires the commissioner to initially allocate 20% of the total funds to domestic insurers. Present law requires the commissioner to offer a second invitation if all monies from the first invitation are not allocated and requires the commissioner to offer a second invitation and prohibits the commissioner from allocating individual grants less that $2 million nor in excess or $10 million, but authorizes insurers who received a grant in response to the first invitation to apply for an additional grant up to a $10 million limit. Requires the commissioner to offer a third invitation if all monies from the second and third invitation are not allocated and prohibits the commissioner from allocating individual grants less than $2 million nor in excess of $10 million, but authorizes insurers who received a grant in response to the first and second invitation to apply for an additional grant up to a $10 million limit.

Proposed law retains present law but changes the commissioner is required to issue a second and third invitation to the commissioner is authorized to issue a second and third invitation.

Present law requires that once the three separate invitations and responses have been finalized, the commissioner is to direct any unexpended or unencumbered funds and any matching capital grant funds not earned to be used for the property insurance tax credit, but requires that if the amount of funds in the program is less than $35 million after the three separate invitations have been finalized, the funds are to be used to accelerate payoff of the Unfunded Accrued Liability of the state retirement systems.

Proposed law retains present law but deletes three separate invitations and requires the unallocated money reverts back to the state general fund and deletes funds less than $35 million be allocated to the Unfunded Accrued Liability of the state retirement systems.

Present law authorizes a non-admitted insurer and an approved unauthorized insurer to apply for a grant if the insurer becomes admitted and licensed to do business in this state, and requires the commissioner to reallocate funds the insurer was to receive if the insurer does not apply timely or is not admitted and licensed in this state.

Proposed law retains present law but removes a non-admitted insurer and an approved unauthorized insurer, but includes a surplus lines insurer, and changes from failing to become admitted and licensed in this state to failing to obtain a certificate of authority.

Present law requires the commissioner to promulgate rules to establish procedures to monitor the net written premium of insurers receiving a grant and to ensure an insurer complies with the provisions of present law and requires the commissioner to provide rules for returning grant money to the state on a pro rata basis if the insurer fails to comply with present law and requires the commissioner to seek the return of unearned grant money from an insurer if the insurer has not complied with the rules for five consecutive years commencing on January 1, 2009 and ending December 31, 2013.

Proposed law retains present law but changes the dates from "January 1, 2009" and "December 31, 2013" to "January 1, 2024" and "December 31, 2028".

Effective August 1, 2022.

(Amends R.S. 22:2361 - 2370)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Makes technical changes.