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## DIGEST

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HB 967 Engrossed

2022 Regular Session

Seabaugh

**Abstract:** Repeals a prohibition on reducing liability limits for certain costs.

Present law provides that liability limits contained in a policy or contract of insurance issued by an authorized insurer shall not be reduced by the expenses of defense in a suit under the policy, unless the commissioner executes a written waiver to authorize the policy liability limits to be reduced by the defense expenses.

Present law provides that the prohibition on reducing liability limits in present law does not apply to personal lines, medical malpractice insurance, commercial vehicle insurance, or commercial general liability insurance.

Present law provides that the prohibition on reducing liability limits in present law shall be waived by the commissioner for insurance policies covering professional liability other than medical malpractice, directors' and officers' liability, errors and omissions liability, pollution liability, employment practices liability, cyber risk liability, information security and privacy liability, patent defense or other intellectual property infringement liability, and commercial liability coverages sold in combination.

Present law provides that the prohibition on reducing liability limits in present law may be waived by the commissioner for other types of insurance, upon consideration by the commissioner of the level of market competition, the nature and design of the product, the availability of insurance coverage, and other relevant factors.

Present law provides that every policy or contract for which a waiver is executed by the commissioner pursuant to present law shall be subject to the following requirements:

- (1) Defense expenses used to reduce the liability limits on the policy or contract shall not include overhead costs, adjusting expenses, or other expenses incurred by the insurer in the ordinary course of business.
- (2) Defense expenses used to reduce the liability limits shall include only reasonable attorney fees and expenses directly connected to the insurer's defense of a specific liability claim on behalf of an insured and any other litigation expenses directly arising from the defense of a specific liability claim.
- (3) The inclusion of defense expenses shall not exhaust the entire amount of liability coverage.

Present law provides that the commissioner may limit the amount of defense expenses used to reduce the liability limits or establish a minimum amount of liability coverage from which defense expenses shall not be deducted.

Present law provides that the commissioner may limit or define the amount of expenses that reduce the liability limits for all or specific type of insurance coverage

Present law provides that any policy or contract of insurance containing terms that require a waiver pursuant to present law shall include a separate notice or inclusion on the declaration page stating that the insurance policy or contract includes defense expenses which may be deducted from the liability limits of the policy. Present law provides that this notice shall be prominently printed or stamped in bold on the policy or contract and shall not be less than a ten-point type.

Proposed law repeals present law in its entirety.

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

(Repeals R.S. 22:1272)