

SENATE BILL NO. 412

BY SENATOR TALBOT AND REPRESENTATIVES AMEDEE, BOYD, BRASS,
GREEN, LAFLEUR, LANDRY, LARVADAIN, MARINO, NEWELL,
SCHLEGEL, STAGNI, THOMPSON, VILLIO AND WILLARD

1 AN ACT

2 To amend and reenact R.S. 22:2361 through 2370 and to enact R.S. 22:2371, relative to the
3 Insure Louisiana Incentive Program; to provide for purposes and public purpose; to
4 provide relative to administration and funding; to provide for cooperative endeavor
5 agreements; to provide for matching grants; to provide for rulemaking; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:2361 through 2370 are hereby amended and reenacted and R.S.
9 22:2371 is hereby enacted to read as follows:

10 §2361. Short title

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

13 §2362. Purposes; public purpose

14 A. Louisiana currently is experiencing a crisis in the availability and
15 affordability of insurance for residential and commercial properties. Louisiana
16 property owners and their insurers sustained catastrophic losses in ~~2005~~ **2020 and**
17 **2021** from ~~Hurricanes Katrina and Rita~~ **hurricanes Laura, Delta, Zeta, and Ida.**

18 As the result of their losses and their assessment of the risk of loss from future
19 storms, many insurers have substantially reduced their participation in the voluntary
20 market for residential and commercial property insurance. With fewer insurers in the
21 voluntary market, competitive pressure on premium rates is reduced. Current
22 underwriting practices have resulted in a substantial increase in the number of

1 Louisiana property owners forced to obtain their property insurance coverage or their
2 coverage for ~~the~~ wind peril from Louisiana Citizens Property Insurance Corporation
3 (~~Citizens~~), the state insurer of last resort. ~~As a result of the 2005 storms, Citizens has~~
4 ~~a substantial deficit that currently is and must be funded by assessments against~~
5 ~~insurers and policyholders. The decline in the voluntary insurance market~~
6 ~~substantially increases Citizens' exposure, thereby threatening to worsen its financial~~
7 ~~condition.~~ Increased premiums and assessments make property insurance coverage
8 unaffordable for some property owners, forcing them to sell or abandon their
9 residential or commercial properties or preventing them from restoring storm-
10 damaged properties, causing some residents to leave or fail to return to the state. The
11 availability of property insurance at reasonable cost is essential to the economy of
12 the state. Owners cannot invest in and lenders will not finance the construction and
13 ownership of residential and commercial buildings without adequate property
14 insurance protection. The state has a vital interest in fostering the availability of
15 property insurance at reasonable cost.

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

25 C. It is ~~hereby declared by the~~ **The** legislature **hereby declares** that assuring
26 an adequate and affordable market for insurance for both residential and commercial
27 properties in this state is essential to the economic viability of the state and its
28 citizens, the assurance of an adequate and stable tax base for the state and its political
29 subdivisions, and the health, welfare, and safety of its citizens. Accordingly, the
30 establishment of the Insure Louisiana Incentive Program implemented through

1 public-private partnerships is declared and demonstrated to be an essential public
2 function and public purpose.

3 §2363. Cooperative endeavors; grants; regulations

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

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

15 §2364. Implementation; grant limitations

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

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

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

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

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

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

24 F. Prior to the award of any grant pursuant to the provisions of this Chapter,
 25 ~~such~~ **the** grant shall be subject to the review and approval of the Joint Legislative
 26 Committee on the Budget. The use of grant funds and unexpended and
 27 unencumbered monies pursuant to the provisions of Subsection D of this Section
 28 shall not be subject to review and approval of the Joint Legislative Committee on the
 29 Budget.

30 §2365. Minimum capital requirements

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

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

8 §2366. Satisfactory prior experience

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

12 §2367. Authorized insurers

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

20 §2368. Matching capital fund grants

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

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

27 §2369. written premium requirements

28 A. ~~Net~~ **For the purposes of this Chapter, "net** written premiums" means
29 the total premiums, exclusive of assessments and other charges, paid by
30 policyholders to insurers for policies that comply with **the provisions of** this Section,

1 minus any return premiums or other premium credits due policyholders.

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

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

18 D. In the first twenty-four months after receipt of matching capital fund
19 grants insurers shall write at least fifty percent of the net written premium for
20 policyholders whose property is located in the parishes included in the federal Gulf
21 Opportunity Zone Act of 2005 in Louisiana. ~~Twenty-five percent of the net written~~
22 ~~premium for policyholders whose property was formerly insured by the Louisiana~~
23 ~~Citizens Property Insurance Corporation, and at least fifty percent of such~~
24 ~~policyholders shall have property located in the parishes included in the federal Gulf~~
25 ~~Opportunity Zone Act of 2005 in Louisiana.~~ Insurers ~~must~~ shall maintain this net
26 written premium ratio over five years to fully earn the matching capital fund grant
27 ~~as outlined in R.S. 22:3310~~ in accordance with R.S. 22:2370.

28 E.(1) The commissioner shall promulgate rules pursuant to the
29 Administrative Procedure Act, R.S. 49:950 et seq., to establish procedures to monitor
30 the net written premium of insurers receiving any grant under this Chapter and to

1 ensure ~~that the insurer is in~~ compliance with the provisions of this Section. These
 2 rules shall include provisions for the return of grant money to the state, on a pro rata
 3 basis, for failure to meet the requirements of this Section. Notwithstanding the
 4 provisions of R.S. 22:2370 to the contrary, the commissioner shall seek the return of
 5 unearned grant money from any insurer who has not ~~been in compliance~~ **complied**
 6 with **the provisions of** this Section for five consecutive years commencing on
 7 ~~January 1, 2009~~ **January 1, 2024**, and ending on ~~December 31, 2013~~ **December 31,**
 8 **2028.**

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

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

22 §2370. Earned capital

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

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

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

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

9 §2371. Insure Louisiana Incentive Fund

10 There is hereby created in the state treasury as a special fund the Insure
11 Louisiana Incentive Fund, referred to in this Chapter as the "fund". Monies
12 appropriated or transferred to the fund shall be deposited by the state treasurer
13 after compliance with the provisions of Article VII, Section 9(B) of the
14 Constitution of Louisiana. Monies in the fund shall be invested in the same
15 manner as monies in the state general fund and any interest earned on the
16 investment of monies in the fund shall be credited to the fund. All unexpended
17 and unencumbered monies in the fund at the end of the fiscal year shall remain
18 in the fund. Monies in the fund shall be used by the department to provide
19 grants pursuant to the provisions of this Chapter.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____