

RÉSUMÉ DIGEST

ACT 675 (SB 428)

2022 Regular Session

Robert Mills

Prior law prohibited the reduction of the liability limits contained in a policy or contract of insurance by the expenses of defense in a suit under the policy or contract unless the commissioner of insurance (commissioner) executed a written waiver that authorized the reduction.

New law removes the requirement the commissioner's waiver be in writing. Authorizes the commissioner to waive the prohibition to the reduction of the liability limits contained in a policy or contract due to the expenses of defense in a suit under a policy or contract.

Prior law prohibition applied to all personal lines, medical malpractice, commercial vehicle, and commercial general liability.

New law prohibits the commissioner from waiving the prohibition for all personal lines and medical malpractice. Removes application of the prohibition for commercial vehicle and commercial general liability.

Prior law required the commissioner to waive the prohibition for certain types of insurance.

New law retains prior law but changes from the commissioner is required to waive the prohibition to the commissioner is authorized to waive the prohibition.

Prior law authorized the waiver of other types of insurance not listed in prior law and upon consideration by the commissioner of relevant factors, that included the level of market competition, the nature and design of the product, and the availability of insurance coverage.

New law authorizes the commissioner to waive the prohibition for insurance types not listed in prior law after he considers the customs of the industry and the interests of the particular insured.

Prior law subjected every policy or contract for which a waiver was executed to the following requirements:

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

New law retains prior law but changes defense expenses from being required to include only reasonable attorney fees and expenses directly connected to the insurer's defense to the defense expenses can include only reasonable attorney fees and expenses directly connected to the insurer's defense. Prohibits overhead, unallocated loss, adjustment expenses, or other unallocated expenses incurred by the insurer in the ordinary course of business from being included as defense expenses.

Prior law authorized the commissioner to limit the amount of defense expenses used to reduce the liability limits or to establish a minimum of liability coverage from which defense expenses cannot be deducted and could limit or define the amount of expenses that reduced the liability limits for all or specific types of insurance coverage.

New law repeals present law.

Effective June 18, 2022.

(Amends R.S. 22:1272)