HLS 23RS-793 ENGROSSED

2023 Regular Session

HOUSE BILL NO. 383

1

BY REPRESENTATIVE AMEDEE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURERS/GUARANTY ASSNS: Requires each insurer subject to the Louisiana Insurance Guaranty Association Law to provide for a data transfer plan and file such plan with the commissioner of insurance

AN ACT

2	To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:572.2, relative to insurance;
3	to require certain insurers to provide for a data transfer plan; to provide for the
4	minimum content of the plan; to require the filing of the plan with the commissioner
5	of insurance under certain circumstances; to provide for the powers and duties of the
6	commissioner relative thereto; to provide relative to the nature of data transfer plans;
7	to exempt data transfer plans from the Public Records Law; to provide for an
8	effective date; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 22:572.2 is hereby enacted to read as follows:
11	§572.2. Louisiana Property and Casualty Guaranty Fund Data Transfer Plan
12	A. Each insurer that is subject to the Louisiana Insurance Guaranty
13	Association Law shall prepare, implement, and maintain a data transfer plan. Upon
14	the occurrence of a company-action level event, as defined in R.S. 22:613, the
15	insurer shall file the data transfer plan with the commissioner.
16	B.(1) The data transfer plan required by Subsection A of this Section shall
17	outline specific procedures, actions, and safeguards that at minimum include all of
18	the following:

1	(a) The manner, methods, and formats in which the insurer maintains and
2	preserves its claims and underwriting records.
3	(b) The process by which the insurer will transfer all of its claims and
4	underwriting records to the Louisiana Insurance Guaranty Association if an order of
5	rehabilitation or liquidation is issued pursuant to R.S. 22:2008.
6	(c) Any other information deemed necessary by the commissioner.
7	(2) If the insurer utilizes a third-party vendor to maintain and preserve its
8	claims and underwriting records, the insurer shall include in its data transfer plan the
9	process by which the third-party vendor will provide the insurer's claims and
10	underwriting records without delay if an order of rehabilitation or liquidation is
11	issued pursuant to R.S. 22:2008
12	C. The commissioner shall review each data transfer plan submitted pursuant
13	to Subsection A of this Section to determine compliance with the requirements of
14	this Section and consult with the Louisiana Insurance Guaranty Association to
15	confirm that the data transfer plan will integrate with the Louisiana Insurance
16	Guaranty Association's manner and means of maintaining records received from
17	insurers that are subject to orders of rehabilitation or liquidation.
18	D. The commissioner may do all of the following:
19	(1) Investigate and examine the records and operations of insurers to
20	determine if each insurer has implemented and complied with the data transfer plan
21	requirements of this Section.
22	(2) Direct an insurer to test the processes set forth in its data transfer plan to
23	ensure that the data can be effectively transferred.
24	(3) Direct an insurer to modify its data transfer plan to comply with the
25	requirements of this Section.
26	(4) Require an insurer to prefund the services required to initiate a data
27	transfer.
28	(5) Require an insurer to take action to remedy substantial noncompliance
29	with the requirements of this Section regarding data transfer plans.

1	(6) Waive compliance with the requirements of this Section upon an insurer's
2	written request that establishes that the issues giving rise to a company-action level
3	event will be resolved and with the concurrence of the Louisiana Insurance Guaranty
4	Association.
5	E. An insurer that remains in a company-action level event, as defined in
6	R.S. 22:613, shall update and file its data transfer plan with the commissioner at
7	intervals the commissioner deems appropriate.
8	F.(1) Data transfer plans shall not be public records or subject to inspection,
9	examination, copying, or reproduction pursuant to the Public Records Law.
10	(2) Each data transfer plan is a proprietary and confidential business record
11	and shall not be subject to production, including subpoena. The data transfer plan
12	and any information produced to the commissioner pursuant to a data transfer plan
13	is subject to the provisions of R.S. 22:1983(J).
14	(3) The commissioner shall provide the data transfer plan and any
15	information used to test the processes to the Louisiana Insurance Guaranty
16	Association or any other guaranty association if, prior to the guaranty association
17	receiving the information, the commissioner and the guaranty association agree, in
18	writing, to hold that information with the same confidential treatment required of the
19	commissioner by R.S. 22:1983(J), unless the insurer grants prior written consent to
20	share the information with a guaranty association.
21	Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:
22	§4.1. Exceptions
23	* * *
24	B. The legislature further recognizes that there exist exceptions, exemptions,
25	and limitations to the laws pertaining to public records throughout the revised
26	statutes and codes of this state. Therefore, the following exceptions, exemptions, and
27	limitations are hereby continued in effect by incorporation into this Chapter by
28	citation:
29	* * *

1 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1, 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 2 3 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, 1008, 1019.2, 1203, 4 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1660.7, 1723, 5 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 6 2303, 2508 7 8 Section 3. This Act shall become effective upon signature by the governor or, if not 9 signed by the governor, upon expiration of the time for bills to become law without signature 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become 12 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 383 Engrossed

2023 Regular Session

Amedee

Abstract: Requires insurers subject to the La. Insurance Guaranty Assoc. Law to prepare a data transfer plan in the event an order of rehabilitation or liquidation is issued, provides for the review and authority of the commissioner of insurance relative to such plans, and exempts the plans from production and the Public Records Law.

<u>Proposed law</u> requires each insurer subject to the La. Insurance Guaranty Assoc. Law (R.S. 22:2051 et seq.) to prepare, implement, and maintain a data transfer plan. Requires the insurer to file the plan with the commissioner upon the occurrence of a company-action level event as defined in <u>present law</u> (R.S. 22:613).

<u>Proposed law</u> requires a data transfer plan to include the manner, methods, and formats in which the insurer maintains and preserves its claims and underwriting records; the process by which the insurer will transfer its records to the La. Insurance Guaranty Assoc. (LIGA) if an order of rehabilitation or liquidation is issued pursuant to <u>present law</u> (R.S. 22:2008); and any other information deemed necessary by the commissioner.

<u>Proposed law</u> provides that if the insurer utilizes a third party to maintain its records, the insurer is required to include in its plan the process by which the third party will provide the insurer's claims and underwriting records without delay.

<u>Proposed law</u> requires the commissioner to review each data transfer plan to determine compliance with <u>proposed law</u> and to consult with LIGA to confirm that the data transfer plan will integrate with its manner and means of maintaining records from insurers that are subject to orders of rehabilitation or liquidation.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> authorizes the commissioner to examine the records and operations of insurers to determine compliance with <u>proposed law</u>; direct an insurer to test and modify its data transfer plan; require an insurer to prefund the services required to initiate a data transfer; require an insurer to take action to remedy substantial noncompliance with <u>proposed law</u>; and waive compliance with <u>proposed law</u> upon the insurer's written request that establishes that the issues causing a company-action level event will be resolved and with the concurrence of LIGA.

<u>Proposed law</u> requires an insurer that remains in a company-action level event to update and file its data transfer plan with the commissioner at intervals the commissioner deems appropriate.

<u>Proposed law</u> subjects data transfer plans to the commissioner's confidentiality provisions in <u>present law</u> (R.S. 22:1983(J)). Requires an insurer to submit a data transfer plan and any related information used to test the processes to LIGA or any other guaranty association if, prior to the guaranty association receiving the information, the parties agree, in writing, to treat the information received as confidential, unless the insurer grants prior written consent to share the information with a guaranty association.

<u>Proposed law</u> specifies that data transfer plans are not subject to public records inspection, examination, copying, or reproduction pursuant to the Public Records Law and that each data transfer plan is a proprietary, confidential business record and not subject to production, including subpoena.

Proposed law provides an exception in the Public Records Law for data transfer plans.

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

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:572.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

- 1. Authorize the commissioner to waive compliance with <u>proposed law</u> upon an insurer's written request that establishes that the issues causing a company-action level event will be resolved and with the concurrence of LIGA.
- 2. Subject a data transfer plan and related information produced to the commissioner to the commissioner's requirements of confidentiality in <u>present law</u> (R.S. 22:1983(J)).
- 3. Require the commissioner to provide the data transfer plan and related information used to test the processes to LIGA or any other guaranty association if, prior to the guaranty association receiving the information, the commissioner and the guaranty association agree, in writing, to hold that information with the same confidential treatment required of the commissioner in present law (R.S. 22:1983(J)), unless the insurer grants prior written consent to share the information with a guaranty association.
- 4. Make technical changes.