

## RÉSUMÉ DIGEST

ACT 444 (HB 511)

2023 Regular Session

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Existing law provides that the La. Insurance Guaranty Assoc. (LIGA) serves a function to ensure the payment of covered claims to claimants or policyholders under certain insurance policies and ensures minimum delay and a minimum financial loss due to the insolvency of an insurer. Further provides for policies and regulations for insolvent insurers.

New law retains existing law.

Existing law defines "covered claim" and excludes penalties and punitive and exemplary damages from the definition of "covered claim".

New law retains existing law and further excludes certain existing law penalties from the definition.

Existing law authorizes LIGA to host executive sessions and limits the subject matter that may be discussed, debated, considered, or scrutinized during executive sessions, including but not limited to matters with respect to claims, claim files, and prospective litigation.

New law retains existing law and broadens the subject matter for discussion to include matters with respect to groups of similar claims and litigation strategy or settlement issues.

Existing law sets forth specific documents that are not subject to discovery, subpoena, or any other alternative form of disclosure in accordance with the Public Records Law (R.S. 44:1 et seq.).

New law makes technical changes and retains existing law.

New law provides that a document or information protected from disclosure in existing law, and protected information of a high net worth insured, are not subject to discovery, subpoena, or other disclosure, unless both parties are compelled by a valid and final court order issued in a proceeding to which both parties had notice and opportunity to object to the disclosure of the document or information.

Existing law authorizes LIGA to satisfy an obligation to a claimant by paying an amount exceeding \$100 but less than \$500,000 per claim, subject to a maximum limit of \$500,000 per accident or occurrence for all other covered claims.

New law clarifies the minimum amount as \$101 and otherwise retains existing law.

Prior law authorized LIGA to assess 1% of a member insurer's net direct written premiums for the preceding calendar year.

New law increases the prior law assessment authority from 1% to 2%.

Existing law requires the assessment to be offset against the premium tax liability in existing law (R.S. 22:2058(A)(3)(b)(ii)).

New law retains existing law but limits up to one-half of the 2% maximum assessment for offset against the premium tax liability.

If the total of the net premium tax liability and assessment for the expenses of the Dept. of Insurance paid for the previous year was less than the offset allowed in existing law (R.S. 22:2058(A)(3)(b)(ii)) for the previous year, prior law authorized a member company to reduce its assessment payment to LIGA for the current year by that difference.

New law deletes prior law.

Existing law requires LIGA to issue a certificate of contribution to each insurer paying an assessment for the amount actually paid.

New law retains existing law and further requires the issued certificate of contribution to be for the amount actually paid up to but not exceeding one-half of the 2% maximum assessment.

New law authorizes the commissioner of insurance (commissioner) to promulgate and adopt a separate form to facilitate submission of a member insurer's filing to recover the amounts not offset in new and existing law, subject to oversight of the appropriate legislative committees.

Prior law prohibited LIGA from including in certain assessments the premium dollars paid to an insurer by any high net worth insured.

New law deletes prior law.

Existing law requires any insurer authorized to deduct premium dollars from its assessment to submit to LIGA a net worth affidavit from each insured whose premium dollars are being deducted, along with a statement of the amount of premium dollars paid by the insured.

New law makes technical changes and retains existing law.

Existing law requires LIGA to have reasonable procedures for requesting financial information from insureds on a confidential basis, subject to approval by the commissioner.

New law makes technical changes and retains existing law.

Existing law requires any amount payable by an insolvent insurer on a covered claim to be reduced by the full applicable limits stated in another insurance policy or by the amount of recovery under the other policy. Generally requires LIGA and the claimant to receive a full credit for the stated limits, unless the claimant demonstrates that he used reasonable efforts to exhaust all coverage and limits applicable to the other policy.

Existing law does not apply to uninsured or underinsured motorists.

New law retains existing law but repeals the portion that excludes uninsured or underinsured motorists.

New law authorizes LIGA to conduct confidential discovery to determine whether credits exist to extinguish its defense obligation during the pendency of litigation. Further authorizes LIGA to conduct confidential discovery to determine whether other available insurance exists, the applicable limits thereof, the amount of a claimant's recovery, the efforts to exhaust any applicable limits, and whether LIGA's obligations to the claimant have been extinguished by any applicable credits during the pendency of litigation.

New law requires the 2% member assessment increased by new law to be applied prospectively and to become effective on Jan. 1, 2024.

Effective upon signature of governor (June 28, 2023)

(Amends R.S.22:2055(6)(b)(intro. para.) and (i), 2056(C)(2)(intro. para.), (c) and (d), 2058(A)(intro. para.), (1)(b)(iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B)(intro. para.) and (6)(a), and 2061.1(A) and (D); Adds R.S. 22:2056(C)(2)(g) and 2062(E); Repeals R.S. 22:2062(A)(2)(c))