

ACT No. 109

Regular Session, 2004

HOUSE BILL NO. 1052

BY REPRESENTATIVE FARRAR

AN ACT

To amend and reenact R.S. 22:1379(3)(f) and 1382(A)(3)(f) and (D), relative to the Louisiana Insurance Guaranty Association; to provide for covered claims; to provide for net worth; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1379(3)(f) and 1382(A)(3)(f) and (D) are hereby amended and reenacted to read as follows:

§1379. Definitions

As used in this Part:

* * *

(3)

* * *

(f) "Covered claim" shall not include any claim asserted for coverage under a policy held by any insured whose net worth exceeds twenty-five million dollars on December thirty-first of the year immediately preceding the date of the determination of the insolvency of the insurer. However, an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis. An "affiliate" of the insured includes any person or entity who directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the insured. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the controlled person or entity, whether through the ownership of voting securities, by contract, or otherwise. The consolidated net worth of the insured and all of its subsidiaries and affiliates shall be calculated on the basis of their fair market values. The failure or refusal of a person

1 D. ~~The association shall have the right to recover from an insured any~~
2 ~~covered claim paid on behalf of the~~ In the event that the association pays a claim on
3 behalf of an insured whose net worth exceeds twenty-five million dollars on
4 December thirty-first of the year immediately preceding the date of the determination
5 of the insolvency of the ~~insured~~ insurer, the association shall have the right to recover
6 from the insured all costs incurred in the defense of said claim, including attorney
7 fees, administrative costs, court costs, indemnity, settlement, or other defense costs.
8 ~~However, an~~ An insured's net worth on such date shall be deemed to include the
9 aggregate net worth of the insured and all of its subsidiaries and affiliates as
10 calculated on a consolidated basis, as provided in R.S. 22:1379(3)(f). An insured for
11 the purposes of this provision shall not include any state or local governmental
12 agency or subdivision thereof.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____