

BY REPRESENTATIVES FIRMENT, BERAULT, BILLINGS, BUTLER, CARRIER,
CARVER, COX, DEVILLIER, DEWITT, EGAN, EMERSON, MIKE JOHNSON,
MCFARLAND, OWEN, AND WILDER

1 AN ACT

2 To amend and reenact R.S. 22:1892(A)(7), (B)(4), and (B)(5)(introductory paragraph) and
3 (b) and to enact R.S. 22:1892(A)(8) and 1892.3, relative to property and casualty
4 insurance; to provide for payments of claims for property damage; to provide for
5 payments of deductibles; to provide for insurers' payments for replacement costs of
6 insured property; to provide for sources used to determine retail costs; to provide
7 with respect to motor vehicle insurance; to provide for first-party insureds and
8 third-party claimants; to provide for settlement practices relative to claims for rental
9 vehicles; to provide for penalties; to provide for proof of loss statements with respect
10 to insurers' payments of claims; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1892(A)(7), (B)(4), and (B)(5)(introductory paragraph) and (b)
13 are hereby amended and reenacted and R.S. 22:1892(A)(8) and 1892.3 are hereby enacted
14 to read as follows:

15 §1892. Payment and adjustment of claims; policies other than life and health and
16 accident; good faith duty; breach of good faith duty; vehicle damage claims;
17 extension of time to respond to claims during emergency or disaster;
18 penalties; arson-related claims suspension; definitions

19 A.

20 * * *

1 found to be arbitrary, capricious, or without probable cause, the insurer is subject to,
 2 in addition to the amount of reasonable expenses incurred by the first-party insured,
 3 a reasonable penalty not to exceed fifty percent of such reasonable expenses or two
 4 thousand five hundred dollars, whichever is greater. Reasonable expenses shall only
 5 include rental expenses or expenses associated with loss of use of the insured vehicle
 6 during the time rental coverage was not approved. This Paragraph does not apply
 7 to an insurer conducting an investigation of coverage under a Reservation of Rights.

8 (5) ~~When~~ If an insurance policy provides for the adjustment and settlement
 9 of first-party motor vehicle total losses on the basis of actual cash value or
 10 replacement with another of like kind and quality, and the insurer elects a cash
 11 settlement based on the actual cost to purchase a comparable motor vehicle, such
 12 costs shall be derived by using one of the following:

13 * * *

14 (b) The retail cost as determined from a ~~generally recognized~~ used motor
 15 vehicle industry source generally recognized by the business industry including but
 16 not limited to insurers, bankers, and loan officers, such as; such as; an electronic
 17 database, if the valuation documents generated by the database are provided to the
 18 first-party claimant, or a guidebook that is available to the general public. If the
 19 insured demonstrates, by presenting two independent appraisals, based on
 20 measurable and discernable factors, including the vehicle's preloss condition, that the
 21 vehicle would have a higher cash value in the local market area than the value
 22 reflected in the source's database or the guidebook, the local market value shall be
 23 used in determining the actual cash value.

24 * * *

25 §1892.3. Payment of claims; property policies; proof of loss statements

26 A. An insurer issuing any type of insurance policy, other than those specified
 27 in R.S. 22:1811 and 1821, and Chapter 10 of Title 23 of the Louisiana Revised
 28 Statutes of 1950, may require the claimant to submit a proof of loss statement as a
 29 prerequisite to making payment on the claim.

1 B. The insurer may require a proof of loss statement on a form consistent
 2 with and limited to the form provided for in Subsection F of this Section; however,
 3 nothing in this Section shall be construed to limit an insurer from utilizing a different
 4 font, format, or trade dress than is used in this Section. Prior to requiring a proof of
 5 loss statement as a prerequisite to making payment on a claim, the insurer shall file
 6 its proof of loss statement with the commissioner and receive approval from the
 7 commissioner.

8 C. If an insurer requires submission of a proof of loss statement as a
 9 prerequisite to making payment on a claim, the insurer shall provide the proof of loss
 10 statement form to the claimant within ten business days of receiving the claim. The
 11 insurer shall also maintain the proof of loss statement form on its website in a
 12 location easily accessible by claimants.

13 D. If an insurer requires submission of a proof of loss statement as a
 14 prerequisite to making payment on a claim, the insurer's receipt of a completed proof
 15 of loss statement from the claimant is the only means of constituting satisfactory
 16 proof of loss, as required by R.S. 22:1892 and 1892.2. Within ten business days of
 17 receipt of a proof of loss statement, the insurer shall notify the claimant whether the
 18 proof of loss statement was complete or incomplete.

19 E. The commissioner may promulgate and adopt rules and regulations in
 20 accordance with the Administrative Procedure Act for the implementation and
 21 enforcement of this Section.

22 F. The following form is a model proof of loss statement:

PROOF OF LOSS FORM	
INSURANCE COMPANY:	
POLICY NUMBER:	POLICY COVERAGE PERIOD: <i>From:</i> _____ <i>To:</i> _____
POLICYHOLDER NAME(S):	POLICY LIMITS:
INSURED'S CURRENT CONTACT INFORMATION: <i>Phone Number:</i> _____ <i>Email Address:</i> _____	

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INSURANCE CLAIM NUMBER:	DATE OF LOSS:
LOCATION OF LOSS (physical address):	
TYPE OF PROPERTY (dwelling, other structure, contents):	
BRIEFLY IDENTIFY HOW YOUR LOSS OCCURRED (fire, flood, hurricane, or other windstorm event):	
LEGAL OWNER(S) OF THE PROPERTY ON THE DATE OF LOSS, INCLUDING MORTGAGEES (if any):	
ESTIMATED TOTAL COST OF REPAIR OR REPLACEMENT OF PROPERTY CALCULATED TO DATE*	
ARE THERE ANY OTHER INSURANCE POLICIES THAT COVER THIS PROPERTY? Y or N (circle one)	
If yes, please identify the name of the insurance company, policy number, policy limits, and the amount of policy proceeds recovered to date for this loss (if any).	

I certify that the information provided in this Proof of Loss Form is true, correct, and current to the best of my knowledge and belief. The loss(es) identified herein did not originate due to any act, plan, or procurement on my part. Additionally, I have not taken nor consented to any action designed to violate the conditions of my Policy or render it void. I further certify that all material facts known to date have been provided to my Insurance Company, and I have not artificially inflated any part or portion of my loss claim, concealed or misrepresented the pre-loss condition of my property, or otherwise engaged in any deceptive conduct with respect to my property loss claim.

The furnishing of this form or the preparation of proof by a representative of the above insurance company is not a waiver of any of its rights.

Executed this _____ day of _____, 20__.

Signature: _____
INSURED

Signature: _____
INSURED

*** Please note, this PROOF OF LOSS FORM does not preclude an insured from submitting a supplemental loss claim if necessary. The amount identified in response to the "ESTIMATED TOTAL COST OF REPAIR OR REPLACEMENT OF PROPERTY CALCULATED TO DATE " inquiry is based solely upon the damages and losses ascertained to date.**

1 *If you have any questions or concerns regarding your claim or the claims process, please refer*
2 *to the Louisiana Department of Insurance's Catastrophe Claims Process Disclosure Guide on the*
3 *Louisiana Department of Insurance's website.*

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____