

CONFERENCE COMMITTEE REPORT

HB 591

2021 Regular Session

Firment

June 10, 2021

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 591 by Representative Firment, recommend the following concerning the Engrossed bill:

1. That the set of Senate Committee Amendments by the Senate Committee on Insurance (#2283) be rejected.
2. That Senate Floor Amendments Nos. 1, 8, and 9 by Senator Talbot (#3506) be adopted.
3. That Senate Floor Amendments Nos. 2 through 7 and 10 by Senator Talbot be rejected.
4. That the following amendments be adopted:

AMENDMENT NO. 1

In Senate Floor Amendment No. 1 by Senator Talbot (#3506), on page 1, line 2, change "that" to "that" and change ", except a vehicle," to "except a vehicle,"

AMENDMENT NO. 2

In Senate Floor Amendment No. 8 by Senator Talbot (#3506), on page 1, line 24, change "June 1, 2022," to "January 1, 2022,"

AMENDMENT NO. 3

In Senate Floor Amendment No. 9 by Senator Talbot (#3506), on page 1, line 26, change "(.)" to "":

5. That the following amendments to the Engrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, change "(H)" to "(G)"

AMENDMENT NO. 2

On page 1, delete lines 6 and 7 in their entirety and insert in lieu thereof the following:

"extended coverage policies; to provide required"

AMENDMENT NO. 3

On page 1, line 11, change "(H)" to "(G)"

AMENDMENT NO. 4

On page 3, delete lines 9 through 20 in their entirety

AMENDMENT NO. 5

On page 3, line 21, change "H." to "G."

AMENDMENT NO. 6

On page 4, line 13, change "Company." to "Company. If there is an appraisal award, all applicable policy terms, limits, deductibles, and conditions will still apply. If you file a lawsuit relative to this policy against this Company prior to a demand for appraisal, the lawsuit will be held in abatement until the execution of an appraisal award."

Respectfully submitted,

Representative Michael "Gabe" Firment

Senator Kirk Talbot

Representative Chad Brown

Senator W. Jay Luneau

Representative Michael T. Johnson

Senator Ronnie Johns

CONFERENCE COMMITTEE REPORT DIGEST

HB 591

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Firmant

Keyword and oneliner of the instrument as it left the House

INSURANCE CLAIMS: Provides for certain claims settlement practices

Report adopts Senate amendments to:

1. Provide that the term "damaged property" does not include vehicles for the purposes of the provisions in proposed law concerning depreciated property.
2. Provide that the appraisal provision in proposed law shall be included in residential property insurance policies beginning June 1, 2022.
3. Provide that neither party is precluded from exercising his rights under the policy or the law, if the amount of loss is set by a written agreement signed by the umpire and one party's appraiser.

Report rejects Senate amendments which would have:

1. Provided that present law and proposed law do not create any civil action, cause of action, or penalty against authorized insurers, their employees, or vendors.
2. Provided that residential property policies providing adjustment and settlement of first-party losses based on repair or replacement cost shall offer the replacement of damaged property provisions in proposed law beginning June 1, 2022, unless otherwise provided by the policy.
3. Authorized the insurer to consider the cost of repairing or replacing undamaged portions of the property, uniformity of appearance that can be achieved without such cost, and the remaining usefulness of the undamaged portion, when determining if items in the adjoining area of a damaged item should be replaced.
4. Provided that present law and proposed law do not make the insurer a warrantor of repairs.
5. Provided that a lawsuit cannot be filed against the insurer during the appraisal process.
6. Provided that if there is an appraisal award, all applicable policy terms, limits, deductibles, and conditions still apply.
7. Provided that if a lawsuit is filed against the insurer prior to a demand for appraisal, the suit will be held in abatement until the execution of an appraisal award.

Report amends the bill to:

1. Remove provisions in proposed law relative to policies providing adjustment and settlement of first-party losses based on replacement cost, except for the provisions in proposed law concerning fire and extended coverage.
2. Change the beginning date that residential property insurance policies must contain the appraisal provision in proposed law from June 1, 2022 to January 1, 2022.
3. Provide that if there is an appraisal award, all applicable policy terms, limits, deductibles, and conditions still apply.

4. Provide that if a lawsuit is filed against the insurer prior to a demand for appraisal, the suit will be held in abatement until the execution of an appraisal award.
5. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Proposed law defines "property" and "depreciation" as it relates to proposed law.

Proposed law provides that insurance policies covering damaged property and allowing for depreciation must provide notice that depreciation may be deducted, and if depreciation is applied, the insurer shall provide a written explanation as to how the depreciation was calculated.

Proposed law requires that depreciation be reasonable and based on a combination of objective criteria and subjective assessment including the actual condition of the property prior to the loss.

Proposed law prohibits insurers from requiring that repairs, replacement, restoration, or remediation be made to an insured's property by a particular preferred vendor or recommended contractor when making payment on a residential or commercial property claim.

Proposed law prohibits insurers from recommending the use of a particular preferred vendor or recommended contractor without informing the insured or claimant that the insured or claimant is under no obligation to use the preferred vendor or recommended contractor to complete repairs, replacement, restoration, or remediation of the insured's property.

Proposed law provides that in the adjustment or settlement of first-party losses under fire and extended coverage policies, insurers are required to include general contractors' overhead and profit in payments for losses when the services of a general contractor are reasonably foreseeable.

Proposed law provides that the deduction of prospective contractor overhead, prospective contractor profit, and sales tax in determining the actual cash value of an adjustment or settlement is not allowed on replacement cost policies or on actual cash value policies.

Proposed law provides a mediation process through appraisal for situations in which the insurer and insured disagree on the amount of a loss.

Proposed law provides model language for the appraisal provision required in residential property insurance policies beginning January 1, 2022.

(Adds R.S. 22:1892(B)(6) and (E)-(G))