

2022 Regular Session

HOUSE BILL NO. 539

BY REPRESENTATIVE FIRMENT

INSURANCE/POLICIES: Provides for property insurance policies

1 AN ACT

2 To amend and reenact R.S. 51:451(A) and to enact R.S. 22:1895.1, R.S. 37:2175.3(A)(12)
3 through (14) and (B)(3) and (4), and R.S. 51:452, relative to property insurance; to
4 provide for the adjustment and settlement of first-party loss based on repair or
5 replacement cost; to provide for matching repairs; to prohibit contractors from
6 engaging in certain acts related to an insured's property insurance claim; to provide
7 for penalties; to prohibit sellers of goods and services from assisting in paying an
8 insured's deductible; to provide contract language advising insureds of their duty to
9 pay their property insurance deductible; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 22:1895.1 is hereby enacted to read as follows:

12 §1895.1. Homeowners' insurance; first-party loss; matching

13 A. Unless otherwise provided in the policy, if a homeowners' insurance
14 policy provides for the adjustment and settlement of first-party loss based on repair
15 or replacement cost, the following shall apply:

16 (1) If a loss requires repair or replacement of an item or part, any physical
17 damage incurred in making such repair or replacement, which is covered by the
18 policy and not otherwise excluded by the policy, shall be included in the loss
19 calculation to the extent of any applicable policy limits. The insured may not be

1 person working on behalf of the contractor including but not limited to a
2 compensated employee or a nonemployee who is compensated by the contractor
3 violates the provisions of this Paragraph.

4 (14) Providing an insured with an agreement authorizing repairs without
5 providing a good faith estimate of the itemized and detailed costs of services and
6 materials for repairs undertaken pursuant to a property damage claim. A contractor
7 shall be considered to have violated the provisions of this Paragraph if a person
8 working on behalf of the contractor including but not limited to a compensated
9 employee or a nonemployee who is compensated by the contractor violates the
10 provisions of this Paragraph. A contractor does not violate this Paragraph if, as a
11 result of the insurer adjusting a claim, the actual cost of repairs differs from the
12 initial estimate.

13 B.

14 * * *

15 (3) A licensed contractor who violates Paragraph (A)(12), (A)(13), or
16 (A)(14) of this Section shall be subject to disciplinary proceeding pursuant to R.S.
17 37:2158 and may be fined up to one thousand dollars for each violation.

18 (4) An unlicensed contractor who violates Paragraph (A)(12), (A)(13), or
19 (A)(14) of this Section shall be subject to the penalties pursuant to R.S. 37:2160 and
20 may be fined up to one thousand dollars for each violation.

21 Section 3. R.S. 51:451(A) is hereby amended and reenacted and R.S. 51:452 is
22 enacted to read as follows:

23 §451. Payments and rebates charged against insurance deductibles; sellers of goods
24 or services prohibited

25 A. No person selling or engaged in the sale of goods or services shall:

26 (1) ~~Advertise or promise to provide goods or services.~~ Provide goods or
27 services or advertise or promise to provide goods or services to an insured in a
28 transaction in which the goods or services will be paid for by the insured from the

1 proceeds of a property insurance claim and the person selling the goods or services,
2 without the insurer's consent, will do any of the following:

3 (a) Pay, waive, absorb, or otherwise decline to charge or collect the amount
4 of the insured's deductible.

5 (b) Provide a rebate or credit in connection with the sale of the goods or
6 services that will offset all or part of the amount paid by the insured as a deductible.

7 (c) In any manner, assist the insured in avoiding monetary payment of the
8 insured's deductible.

9 ~~(2) Offer to pay, pay, or rebate all or part of any insurance deductible, under~~
10 ~~a property or casualty insurance policy, to a consumer as part of any arrangement for~~
11 ~~goods and services paid for by the consumer from proceeds of a property or casualty~~
12 ~~insurance policy.~~

13 ~~(3) Charge an amount, for such goods or services, that exceeds the usual and~~
14 ~~customary charge by an amount equal to or greater than all or part of the applicable~~
15 ~~insurance deductible paid.~~

16 * * *

17 §452. Contract paid with insurance policy proceeds; notice required

18 A contract to provide goods or services that is reasonably expected to be paid
19 wholly or partly with the proceeds from a claim under a property insurance policy
20 and has a contract price of one thousand dollars or more shall contain the following
21 notice in at least twelve-point boldfaced type: "Louisiana law requires a person
22 insured under a property insurance policy to pay any deductible applicable to a claim
23 made under the policy. It is a violation of Louisiana law for a seller of goods or
24 services who reasonably expects to be paid wholly or partly from the proceeds of a
25 property insurance claim to knowingly allow the insured person to fail to pay, or
26 assist in the insured person's failure to pay the applicable insurance deductible."

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 539 Original

2022 Regular Session

Firmen

Abstract: Provides for property insurance policies.

Proposed law provides that if a loss requires repair or replacement of an item or part, any damage incurred while making the repair shall be included in the loss calculation.

Proposed law provides that if a loss requires replacement of items and the replaced items do not match in quality, color, or size, the insurer shall make reasonable replacement of items in the adjoining areas.

Proposed law provides that in determining the extent necessary to replace items in the adjoining areas the insurer may consider the cost of replacing the undamaged portions, the degree of uniformity that can be achieved without additional cost, the remaining useful life of the undamaged portion, and other relevant factors.

Proposed law does not make the insurer a warrantor of repairs, nor does proposed law authorize or preclude enforcement of policy provisions related to the resolution of settlement disputes.

Present law prohibits persons performing home improvement contracting from engaging in certain acts.

Proposed law retains present law and prohibits persons performing home improvement contracting from engaging in the following acts:

- (1) Interpreting insurance policy provisions or advising an insured regarding coverage or duties under the insured's property insurance policy.
- (2) Adjusting a property insurance claim on behalf of an insured, unless the contractor holds a public adjuster license.
- (3) Providing an insured with an agreement authorizing repairs without providing a good faith estimate of the itemized and detailed cost of services and materials for repairs undertaken pursuant to a property damage claim.

Proposed law provides that a licensed contractor that violates proposed law shall be subject to a disciplinary proceeding and may be fined up to \$1,000 for each violation.

Proposed law provides that an unlicensed contractor who violates proposed law shall be subject to the unauthorized contracting penalties found in present law and may be fined up to \$1,000 for each violation.

Present law provides that no person selling or engaging in the sale of goods or services shall advertise or promise to provide goods or services or offer to pay, pay, or rebate any part of an insurance deductible as part of an arrangement for goods and services paid for with proceeds from an insurance policy.

Proposed law repeals present law and provides that no person selling or engaging in the sale of goods or services shall provide a good or service or advertise or promise to provide goods or services to an insured in a transaction in which the good or service will be paid for with

proceeds of a property insurance claim and the person selling the good or service, without the insurer's consent, will do any of the following:

- (1) Pay, waive, absorb, or otherwise decline to charge or collect the amount of the insured's deductible.
- (2) Provide a rebate or credit in connection with the sale of a good or service that will offset all or part of the amount paid by the insured as a deductible.
- (3) In any manner, assist the insured in avoiding monetary payment of the required insurance deductible.

Proposed law provides language for a notice that shall be included in contracts to provide a good or service that is reasonably expected to be paid with proceeds from a claim under an insurance policy.

(Amends R.S. 51:451(A); Adds R.S. 22:1895.1, R.S. 37:2175.3(A)(12)-(14) and (B)(3) and (4), and R.S. 51:452)