

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. 22:1964(31), R.S. 37:2175.3(A)(12)
3 through (14) and (B)(3), and R.S. 51:452, relative to property insurance; to prohibit
4 contractors from engaging in certain acts related to an insured's property insurance
5 claim; to provide for penalties; to prohibit sellers of goods and services from
6 assisting in paying an insured's deductible; to provide contract language advising
7 insureds of their duty to pay their property insurance deductible; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:1964(31) is hereby enacted to read as follows:

11 §1964. Methods, acts, and practices which are defined as unfair or deceptive

12 The following are declared to be unfair methods of competition and unfair
13 or deceptive acts or practices in the business of insurance:

14 * * *

15 (31) Any violation of R.S. 37:2175.3(A)(12) or (13).

16 Section 2. R.S. 37:2175.3(A)(12) through (14) and (B)(3) are hereby enacted to read
17 as follows:

18 §2175.3. Home improvement contracting; prohibited acts; violations

19 A. The following acts are prohibited by persons performing home
20 improvement contracting services:

21 * * *

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

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

4 (1) ~~Advertise or promise to provide goods or services. Provide goods or~~
5 services or advertise or promise to provide goods or services to an insured in a
6 transaction in which the goods or services will be paid for by the insured from the
7 proceeds of a property insurance claim and the person selling the goods or services,
8 without the insurer's consent, will do any of the following:

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

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

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

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

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

22 * * *

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

24 A contract to provide goods or services that is reasonably expected to be paid
25 wholly or partly with the proceeds from a claim under a property insurance policy
26 and has a contract price of one thousand dollars or more shall contain the following
27 notice in at least twelve-point boldfaced type: "Louisiana law requires a person
28 insured under a property insurance policy to pay any deductible applicable to a claim
29 made under the policy. It is a violation of Louisiana law for a seller of goods or

1 services who reasonably expects to be paid wholly or partly from the proceeds of a
 2 property insurance claim to knowingly allow the insured person to fail to pay, or
 3 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 Engrossed

2022 Regular Session

Firmment

Abstract: Provides for property insurance policies.

Present law provides certain conduct that is considered to be an unfair method or competition and unfair or deceptive act or practice in the business of insurance.

Proposed law retains present law and provides that violation of proposed law (R.S. 37:2175.3(A)(12) and (13)) shall be considered to be an unfair method or competition and unfair or deceptive act or practice in the business of insurance.

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.
- (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 in addition to administrative sanctions, violation of proposed law (R.S. 37:2175.3(A)(12) and (13)) shall constitute an unfair trade practice, and the penalties contained in present law (R.S. 22:1969) may be enforced by the commissioner of insurance.

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. 22:1964(A)(31), R.S. 37:2175.3(A)(12)-(14) and (B)(3), and R.S. 51:452)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Remove provisions of proposed law regarding the adjustment and settlement of first-party loss based on repair or replacement costs.
2. Provide that a violation of proposed law (R.S. 37:2175.3(A)(12) and (13)) shall be considered an unfair trade practice and provides the penalties for violation of proposed law.
3. Remove an exception from proposed law (R.S. 37:2175.3(A)(13)) for contractors who have a public adjuster license.
4. Make technical changes.