
DIGEST

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HB 607 Original

2023 Regular Session

Cormier

Abstract: Provides for the defining of "bad faith", the adjustment of the appraisal process for disputes between claimants and insurers, and penalties for bad faith insurers.

Present law provides that all insurers issuing any type of contract, other than those specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the La. Revised Statute of 1950, shall pay the amount of any claim due to any insured within 30 days after receipt of satisfactory loss from the insured.

Proposed law repeals present law but codifies some of the provisions in present law.

Present law provides that the insurer must notify the insurance producer of record of all such disbursements for property damage claims made in accordance with present law.

Proposed law repeals present law but codifies some of the provisions in present law.

Present law provides that all insurers issuing any type of contract, other than those specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the La. Revised Statute of 1950, shall pay the amount of any third party property damage claim and of any reasonable medical expenses claim due to any bona fide third party claimant within 30 days after written agreement of settlement of the claim from any third party claimant.

Proposed law repeals present law but codifies some of the provisions in present law.

Present law provides that the insurer shall initiate loss adjustment of a property damage claim and of a claim for reasonable medical expenses within 14 days after notification of loss by the claimant.

Present law provides that in the case of a catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within 30 days after notification of loss by the claimant. Present law further provides an exception in cases of catastrophic loss.

Proposed law retains present law but changes the time period from 30 days to 90 days.

Present law mandates that an insurer shall make a written offer to settle any property damage claim, including a third party claim, within 30 days after receipt of satisfactory proofs of loss of that claim.

Proposed law repeals present law but codifies some of the provisions in present law.

Present law mandates that an insurer shall issue a copy of the insurer's field adjuster report, relative to the insured's property damage claim, to the insured within 15 days of receiving a request for such from the insured.

Proposed law retains present law and makes technical changes.

Present law provides that if an insurer issues a check, draft, or other negotiable instrument that is jointly payable to an insured and a mortgage or mortgage servicer as payment of insurance settlement proceeds for multiple types of coverage, the insurer shall provide with the check, draft, or other negotiable instrument a statement indicating the dollar amount of insurance settlement proceeds paid under each type of coverage. Present law further provides that an insurer may issue separate checks, drafts, or other negotiable instruments for payment of each type of coverage in lieu of issuing a statement.

Proposed law retains present law and makes technical changes.

Proposed law provides that the following exclusive list of acts, if knowingly committed or performed by an insurer, with such frequency to indicate a general business practice constitutes a breach of contract:

- (1) Failing to pay a settlement within 30 days after receipt by the insurer of a written agreement executed by the claimant.
- (2) Denying coverage or attempting to settle a claim on the basis of an application which the insurer knows was altered without notice to, or knowledge or consent, the insured.
- (3) Misleading a claimant as to the applicable prescriptive period.
- (4) Failing to pay the undisputed amount of any claim due to any person or entity insured by the contract within 60 to 90 days after receipt of satisfactory proof of loss from any person or entity insured by the contract when such failure is arbitrary and capricious.
- (5) Failing to pay claims when such failure is arbitrary and capricious.

Proposed law defines "bad faith" and clarifies the circumstances in which an insurer shall be deemed in "bad faith."

Proposed law defines "satisfactory proof of loss", "arbitrary and capricious", and "mass catastrophic loss".

Proposed law mandates that the Insurance Guaranty Association Fund shall not be liable for any special damages awarded.

Proposed law sets forth the steps that a claimant must take when an insurer is in violation of this

provision of law.

Present law provides that when an insurer fails to make a payment to the claimant within 30 days after receipt of such satisfactory written proofs and demand therefor or failure to make a written offer to settle any property damage claim.

Proposed law retains present law but changes the time delay from 30 days to 60 days.

Present law provides for the award of general and specific damages caused by the breach an insurer's duty.

Present law provides that the La. Dept. of Insurance shall subject the insurer to a penalty, in addition to the amount of the loss, of 50% in damages when he violates any provision of this law.

Proposed law retains present law but decreases the penalty from 50% to 25%.

Proposed law provides for technical changes.

Present law mandates and requires that a residential property insurance policy contain a clause that generates, expounds upon, and provides for an appraisal process.

Proposed law retains present law and makes technical changes.

Proposed law provides that timely payment of an appraisal award shall not be considered a late payment.

Proposed law provides that this provision of law shall not be construed to authorize a class action suit against any insurer solely for recovery of penalties.

(Amends R.S. 22:1892)