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## DIGEST

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HB 601 Engrossed

2023 Regular Session

Huval

**Abstract:** Provides for bad faith claims against insurers.

Present law provides for definitions.

Proposed law adds the following definitions:

- (1) Arbitrary, capricious, or without reasonable cause.
- (2) Catastrophic loss.
- (3) Disinterested.
- (4) Undisputed amount.
- (5) Damaged property.
- (6) Depreciation.

Present law provides that all insurers issuing any type of contract, other than those specified in present law, shall pay the amount of any claim due to an insured within 30 days after receipt of satisfactory proofs of loss from the insured or any party in interest.

Proposed law retains present law and makes technical changes.

Present law provides that an insurer shall notify the insurance producer of record of payments for property damage claims in certain circumstances.

Proposed law repeals present law.

Present law provides all insurers issuing any type of contract, other than those specified in present law, shall pay the amount of an third party property damage claim and of any reasonable medical expenses claim due to a bona fide third party claimant within 30 days after written agreement of settlement of the claim from any third party claimant.

Proposed law retains present law and makes technical changes.

Present law provides that, except in the case of catastrophic loss, 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.

Proposed law changes 14 days to 15 days.

Present law provides that in the case of 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 provides that the commissioner may promulgate a rule for extending the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster up to an additional 30 days.

Proposed law retains present law.

Present law provides that after a catastrophic loss, only one additional extension of the period of time for initiating a loss adjustment may be allowed and must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.

Proposed law retains present law.

Present law provides that insurers 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 retains present law and makes technical changes.

Proposed law provides that claims for penalties and attorney fees pursuant to this provision of law are subject to a liberative prescriptive period of two years.

Proposed law provides that insurers adjusting an insurance policy that covers immovable property, including manufacture red and modular homes as defined in present law, shall transmit payment of the undisputed amount of any claim due to an insured within 30 days after receipt of satisfactory proof of loss from the insured or any party in interest.

Proposed law provides that the insurer shall notify the insurance producer of record of all such payments for property damage claims made in accordance with proposed law.

Present law provides that the failure to make such payment 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, including a third-party claim, within 30 days after receipt of satisfactory proofs of loss of that claim, as provided in proposed law.

Proposed law retains present law.

Present law provides that when a insurer is found to be violation of present law and the violation is

found to be arbitrary, capricious, or without reasonable cause the insurer he shall be subject to penalties.

Proposed law changes reasonable cause to probable cause.

Proposed law provides that for purposes of a claim brought due to a breach of present law relating to payment and adjustment of a first-party claim arising under an insurance policy for immovable property, including manufactured and modular homes as defined in present law, "satisfactory proof of loss" means the insurer has received written proof that is sufficient to establish the extent of covered damages and the amount due on an insurance claim.

Proposed law provides that, an insurer may require completion of a signed statement in proof of loss as a condition of receipt of a satisfactory proof of loss in support of a claim for immovable property coverage.

Proposed law provides that in the case of catastrophic loss, the insurer shall acknowledge receipt of a claim, initiate loss adjustment of a property damage claim expenses, and request from the insured any items, statements, and forms that the insurer reasonably believes, at that time, will be required from the insured within 15 days after notification of loss by the insured. Proposed law further provides that the acknowledgment of the receipt shall be sent either by U.S. mail, private commercial carrier, electronic delivery, or hand delivery.

Proposed law provides that the failure to initiate loss adjustment of a property damage claim within 15 days after notification of loss by the insured in accordance with proposed law shall subject the insurer to the penalties provided in present law.

Proposed law provides that in the case of catastrophic loss, the insurer shall acknowledge receipt of a claim, initiate loss adjustment of the property damage claim, and request from the insured any items, statements, and forms that the insurer reasonably believes, at that time, will be required from the insured within 30 days after notification of loss by the insured.

Proposed law provides that the commissioner may promulgate and adopt a rule in accordance with the Administrative Procedure Act to extend the time period up to an additional 30 days for an insurer to initiate a loss adjustment claim for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster.

Proposed law provides that thereafter, only one additional extension of the period of time for initiating a loss adjustment may be allowed and must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.

Proposed law provides that the insurer shall provide the insured with a form upon which the insured shall submit his signed statement in proof of loss within 30 days after the insured's notification of loss.

Proposed law provides that the insurer shall send acknowledgment of its receipt to the insured either

by United States mail, private commercial carrier, electronic delivery, or hand delivery.

Proposed law provides that an insurer may make additional requests for information or inspection if during the investigation of the claim the additional requests are found to be necessary.

Proposed law provides that for matters remaining in dispute once an insurer has received all items, statements, and forms requested by the insurer, or has completed requested inspections or reinspections, an insurer shall accept or reject a claim within 15 days of receiving all items, statements, forms, inspection or reinspection requested by the insurer to determine satisfactory proof of loss.

Proposed law provides that for matters remaining in dispute once an insurer has received all items, statements, and forms requested by the insurer, or completed requested inspections or reinspections, if an insurer is unable to accept or reject a claim within 15 days after receiving the items, statements, and forms requested by an insurer, or completing a requested inspection or reinspection, the insurer, within that same time period, shall notify the insured of the reasons that the insurer needs additional time to assess the claim.

Proposed law provides 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 provides that if an insurer issues a check, draft, or other negotiable instrument that is jointly payable to an insured and a mortgagee 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 including but not limited to dwelling, personal property, and additional living expenses.

Proposed law provides that in lieu of issuing a statement, an insurer may issue separate checks, drafts, or other negotiable instruments for payment of each type of coverage.

Proposed law provides for penalties.

Proposed law provides that all claims brought by insureds against an insurer shall be paid by check or draft of the insurer or, if offered by the insurer and the insured requests, electronic transfer of funds to the order of the insured to whom payment of the claim is due pursuant to the policy provisions, or his attorney, or upon direction of the insured to one specified.

Proposed law provides that no insurer shall intentionally or unreasonably delay, for more than three calendar days, exclusive of Saturdays, Sundays, and legal holidays, the processing of any properly executed and endorsed check or draft issued in settlement of an insurance claim.

Proposed law provides that an insurer shall not require that repairs, replacement, restoration, or remediation be made to an insured's property by a particular preferred vendor or recommended

contractor.

Proposed law provides that an insurer shall not recommend 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 an insurer is required to include general contractor's overhead and profit in payments for losses when the services of a general contractor are reasonably foreseeable.

Proposed law provides that residential property insurance policies shall contain a provision that outlines a process whereby the amount of a loss may be set through appraisal, if an insurer and insured do not agree on the amount of the loss and the insurer or insured makes a demand for such.

Proposed law provides for the implementation, initiation, and guidelines of the appraisal process.

Present law sets forth the acts that constitute a breach of the insurer's duties.

Proposed law retains present law and reformulates the standard necessary to constitute a breach.

Proposed law clarifies the applicable standard and makes technical changes.

Present law provides for the penalties and damages imposed upon an insurer that does not pay an insured within a specified time period.

(Amends R.S. 22: 1892(A)(1)-(4), (B)(1)-(4), and 1973(B)(5) and (6); Adds R.S. 22:46(29)-(32) and 1892.2; Repeals R.S. 22:1892(A)(5) and (6), (B)(6), and (E)-(G))

#### Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Change the definition of "disinterested" to mean that a party does not have, nor has he ever had, a pecuniary or monetary interest in the claim, a familial relationship with either party, or an employee or employer relationship with either party.
3. Change "probable cause" to "reasonable cause."
4. Provide that immovable property shall include manufactured and modular homes.
5. Require that an insured provide a signed statement of proof of loss and delete the requirement that an insured give the insurer a sworn statement of proof of loss.

6. Provide that the commissioner of insurance may promulgate and adopt a rule in accordance with the Administrative Product Act to extend the time period up to an additional 30 days for an insurer to initiate a loss adjustment in certain circumstances.
7. Implement a 30-day-time period for an insurer to provide the insured with his proof of loss.