
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.

DIGEST

SB 323 Engrossed

2024 Regular Session

Talbot

Present law provides for payment and adjustment procedures for property damage insurance claims.

Present law provides bad faith penalties for an insurer that fails to comply with present law.

Proposed law retains present law but removes bad faith penalties for an insurer not in compliance with present law, and adds an insurer that is not in compliance with present law is subject to a penalty not greater than \$5,000 or for bad faith penalties, whichever is greater.

Present law provides certain procedural requirements if the president or governor declares a state of disaster.

Proposed law defines "catastrophic loss", "immovable property", and "residential property".

Proposed law provides property damage insurance claims are subject to a two year liberative prescription period.

Present law provides an exemption from class actions and penalties awarded pursuant to present law for the La. Insurance Guaranty Association and La. Citizens Property Insurance Corporation.

Proposed law retains present law and adds an exemption for the La. Insurance Guaranty Association from any liability for any special damages provided for in proposed law.

Proposed law provides an insurer owes to his insured a duty of good faith and fair dealing. Proposed law provides an insurer in bad faith is subject to penalties not to exceed 50% or the damages or \$5,000, whichever is greater.

Proposed law provides an insurer breaches its duty of good faith and fair dealing by any of the following acts:

- (1) Misrepresents pertinent facts or insurance policy provisions relating to any coverages at issue.
- (2) Fails to pay a settlement within thirty days after an agreement is reduced to writing.
- (3) Denies 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 of, the insured.
- (4) Misleads a claimant as to the applicable prescriptive period.

(5) Fails to pay claims when the failure is arbitrary, capricious, or without probable cause.

Proposed law provides the insured, claimant, and representatives of the insured or claimant have a duty of good faith and fair dealing. Proposed law provides bad faith actions committed by the insured, claimant, or his representative are any of the following:

- (1) Fails to comply with contractual duties established by his insurance policy, that includes providing requested information regarding the claim, making demands on the insurer, setting deadlines, and attempting to settle the claim.
- (2) Misrepresents facts or insurance policy provisions that relate to any coverage at issue.
- (3) Submits an estimate for damages that lacks a basis for coverage under the policy terms or lacks a good faith evidentiary basis.

Proposed law does not impact any right or remedy available to the insurer, including but not limited to voiding the policy or contract or deny coverage.

Proposed law provides that if a trier of fact determines the insured, claimant, or representatives of the insured or claimant breach their duty of good faith and fair dealing, the insured or claimant is not entitled to recover any penalties or attorney fees.

Proposed law does not apply to surety bonds or life or health and accident policies.

Proposed law provides for an insurer acting in good faith and fair dealing and provides the insurer is subject to penalties for violating proposed law.

Proposed law provides the commissioner may extend the transmittal of payment for an additional 30 days for commercial properties with insurance at multiple locations.

Proposed law provides procedures for catastrophic losses to residential property.

Proposed law provides procedures for catastrophic losses to immovable property.

Proposed law provides penalties for an insurer that fails to comply with proposed law.

Proposed law requests the La. State Law Institute to revise citations listed in present law to conform with proposed law.

Effective July 1, 2024.

(Amends R.S. 22:1892(A)(3) and (4), (B)(1), and (H); adds R.S. 22:1892(A)(7), (B)(7), (I), (J), and (K) and 1892.2; repeals R.S. 22:1973)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Makes technical changes.
2. Clarifies the penalty amounts for a denied claim.
3. Provides an insured, a claimant, or his representative has a duty of good faith.
4. Clarifies what constitutes a breach of the good faith duty for an insured, a claimant, or his representative.
5. Requests the La. State Law Institute to update present law to conform with proposed law.
6. Changes the effective date to July 1, 2024.