

RÉSUMÉ DIGEST

ACT 3 (SB 323)

2024 Regular Session

Talbot

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

Existing law provides bad faith penalties for an insurer that fails to comply with existing law.

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

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

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

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

New law provides any penalty for breach of a duty that is based solely on failure to pay the amount of the claim due within the time required by new law following receipt of satisfactory proof of loss will only be awarded a penalty if the breach is found to be arbitrary, capricious, or without cause.

New law requires an insurer to transmit payment due for a catastrophic loss of a residential property within 60 days after receipt of satisfactory proof of loss.

New law requires an insurer to transmit payment due for a catastrophic loss of an immovable property within 90 days after receipt of satisfactory proof of loss.

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

New law retains existing law and adds an exemption for the La. Insurance Guaranty Association from any liability for any special damages provided for in existing and new law.

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

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

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to any coverages at issue.
- (2) Failing to pay a settlement within 30 days after an agreement is reduced to writing.
- (3) 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 of, the insured.
- (4) Misleading a claimant as to the applicable prescriptive period.
- (5) Failing to pay claims when the failure is arbitrary, capricious, or without probable cause.

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

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

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

New 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.

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

New law provides penalties for an insurer that fails to comply with the new law.

New law requests the La. State Law Institute to revise citations listed in existing law to conform with the new 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)