
DIGEST

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HB 469 Original

2021 Regular Session

Larvadain

Abstract: Provides for homeowner's insurance claims settlement practices.

Present law provides that knowingly failing to pay the amount of any claim due any person insured by the contract within 602 days after receipt of proof of loss from claimant, when such failure is arbitrary, capricious, or without probable cause constitutes a breach of the insurer's duties.

Proposed law removes the requirement that the failure to pay in present law be done knowingly.

Proposed law changes the standard for the insured's conduct necessary to exempt the insurer from his duty in present law from arbitrary, capricious, or without probable actions by the insured to burdensome behavior by the insured.

Proposed law provides that inspection of the property and damage incurred is satisfactory proof of loss.

Present law provides that failure to pay claims pursuant to present law (R.S. 22:1893) when such failure is arbitrary, capricious, or without probable cause constitutes a breach of the insurer's duties.

Proposed law changes the standard for the insured's conduct necessary to exempt the insurer from his duty in present law from arbitrary, capricious, or without probable actions by the insured to burdensome behavior by the insured.

Proposed law provides that extending the claims process by allowing more than three insurance adjusters, employed or contracted by the insurer, to adjust the claim without the express written consent of the insured constitutes a breach of the insurer's duties.

Present law provides that in addition to any general or special damages to which a claimant is entitled for breach of the imposed duty, the claimant may be awarded penalties assessed against the insurer in an amount not to exceed two times the damages sustained or \$5,000, whichever is greater.

Proposed law retains present law but changes the imposition of the penalty in present law from being permissive to being mandatory.

Proposed law provides that the insured is required to only show his damages, which shall be doubled, if there is a finding of bad faith.

Present law provides that all insurers issuing any type of contract, other than those specified in present law (R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950), shall pay the amount of any claim due any 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 provides that inspection of the property and damage incurred by the insured is satisfactory proof of loss.

Present law provides that failure to make payment on a claim within the time frame provided in present law shall subject the insurer to a penalty, in addition to the amount of the loss, of 50% damages on the amount found to be due from the insurer to the insured, or \$1,000 payable to the insured.

Proposed law retains present law but changes the penalty from 50% damages on the amount found to be due from the insurer to the insured, or \$1,000 payable to the insured to an amount not to exceed twice the damages sustained or \$5,000, whichever is greater.

Present law provides that in the event a partial payment or tender has been made, the insurer shall be subject to a penalty of 50% of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs.

Proposed law retains present law but changes the penalty from 50% of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs to twice the amount found to be due as well as reasonable attorney fees and costs.

(Amends R.S. 22:1892(A)(1) and (B)(1) and 1973(B)(intro. para.), (5), and (6) and (C); Adds R.S. 22:1973(B)(7))