

2021 Regular Session

HOUSE BILL NO. 591

BY REPRESENTATIVE FIRMENT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE CLAIMS: Provides for certain claims settlement practices

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AN ACT

To enact R.S. 22:1892(B)(6) and (E) through (I), relative to claims settlement practices; to provide for the definitions; to provide for insurance coverage of damaged property; to prohibit insurers from requiring insureds to use a preferred vendor or contractor; to provide for the adjustment and settlement of first-party losses under fire and extended coverage policies; to provide for policies providing adjustment and settlement of first-party losses based on replacement cost; to provide for insurance policies providing adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage; to provide required adjustment dispute resolution language for residential property polices; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1892(B)(6) and (E) through (I) are enacted to read as follows:

§1892. Payment and adjustment of claims, policies other than life and health and accident; personal vehicle damage claims; extension of time to respond to claims during emergency or disaster; penalties; arson-related claims suspension

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B.

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1 overhead and profit in payments for losses when the services of a general contractor
2 are reasonably foreseeable. This requirement applies to policies that provide for the
3 adjustment and settlement of losses on a replacement cost basis and to policies that
4 provide for the adjustment and settlement of losses on an actual cash value basis.

5 (2) The deduction of prospective contractor overhead, prospective contractor
6 profit, and sales tax in determining the actual cash value of an adjustment or
7 settlement is not allowed on replacement cost policies or on actual cash value
8 policies.

9 G. The following shall apply to policies providing adjustment and settlement
10 of first-party losses based on replacement cost:

11 (1) If a loss requires repair or replacement of an item or part, any
12 consequential physical damage incurred in making such repair or replacement not
13 otherwise excluded by the policy, shall be included in the loss. The insured shall not
14 be required to pay for betterment or any other cost except for the applicable
15 deductible.

16 (2) If a loss requires replacement of items and the replaced items do not
17 match in quality, color, or size, the insurer shall replace all items in the area to
18 conform to a reasonably uniform appearance. The requirement of this Paragraph
19 applies to interior and exterior losses. The insured shall not bear any cost in excess
20 of the applicable deductible.

21 H.(1) Insurers issuing insurance policies providing adjustment and settlement
22 of losses on an actual cash value basis on residential fire and extended coverage shall
23 determine actual cash value based on the replacement cost of the property at the time
24 of loss less depreciation, if any. The insurer shall provide a copy of the claim file
25 worksheets detailing any and all deductions for depreciation.

26 (2) In cases in which the insured's interest is limited, because the property
27 has nominal or no economic value or a value disproportionate to replacement cost
28 less depreciation, the determination of actual cash value as set forth in this
29 Subsection is not required. In such cases, the insurer shall provide, upon the

1 insured's request, a written explanation of the basis for limiting the amount of
2 recovery along with the amount payable under the policy.

3 I. All residential property insurance policies shall contain the following
4 provision (with permission to substitute the word "company" with a more accurate
5 descriptive term for the insurer):

6 "For cases in which the insured and this Company shall fail to agree as to the
7 actual cash value or the amount of loss, then, on the written demand of either, each
8 shall select a competent and disinterested appraiser and notify the other of the
9 appraiser selected within twenty days of such demand. The appraisers shall first
10 select a competent and disinterested umpire; and failing for fifteen days to agree
11 upon such umpire, then on request of the insured or this Company such umpire shall
12 be selected by a judge of a court of record in the state in which the property covered
13 is located. The appraisers shall then appraise the loss, stating separately actual cash
14 value and loss to each item, and failing to agree, shall submit their differences, only,
15 to the umpire. An award in writing, so itemized, of any two when filed with this
16 Company shall determine the amount of actual cash value and loss. Each appraiser
17 shall be paid by the party selecting him and the expenses of appraisal and umpire
18 shall be paid by the parties equally."

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 591 Original

2021 Regular Session

Firmen

Abstract: Provides relative to certain claims settlement practices.

Proposed law defines "property" and "depreciation" as it relates to proposed law.

Proposed law provides that insurance policies covering damaged property and allow for depreciation must provide notice that depreciation may be deducted, and if depreciation is applied, the insurer shall provide a written explanation as to how the depreciation was calculated.

Proposed law provides that insurers shall not require that repairs, replacement, restoration, or remediation be made to an insured's property by a particular preferred vendor or recommended contractor when making payment on a residential or commercial property claim.

Proposed law provides that insurers 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 in the adjustment or settlement of first-party losses under fire and extended coverage policies, insurers are 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 the deduction of prospective contractor overhead, prospective contractor profit, and sales tax in determining the actual cash value of an adjustment or settlement is not allowed on replacement cost policies or on actual cash value policies.

Proposed law provides that the following shall apply to policies providing for the adjustment and settlement of first-party losses based on replacement cost:

- (1) Any consequential physical damage incurred in making a repair or replacement, not otherwise excluded by the policy, shall be included in the loss.
- (2) If a loss requires replacement of items and the replaced items do not match in quality, color, or size, the insurer shall replace all items in the area so as to conform to a reasonably uniform appearance.

Proposed law provides that insurers issuing insurance policies providing for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage shall determine actual cash value based on the replacement cost of the property at time of loss less depreciation.

Proposed law provides that in cases in which the insured's property has nominal or no economic value or a value disproportionate to replacement cost, the determination of actual cash value as set forth in proposed law is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy

(Adds R.S. 22:1892(B)(6) and (E)-(I))