

2021 Regular Session

HOUSE BILL NO. 585

BY REPRESENTATIVE GEYMANN

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

INSURANCE/HOMEOWNERS: Provides relative to homeowner's insurance claims settlement practices

1 AN ACT

2 To amend and reenact R.S. 22:1892(B)(1) and to enact R.S. 22:1892(A)(5), relative to
3 homeowner's insurance claims settlement practices; to provide for certain claims
4 settlement practices; to provide for penalties for insurers failing to provide timely
5 payment or settlement offers for claims; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1892(B)(1) is hereby amended and reenacted and R.S.
8 22:1892(A)(5) is hereby enacted to read as follows:

9 §1892. Payment and adjustment of claims, policies other than life and health and
10 accident; personal vehicle damage claims; extension of time to respond to
11 claims during emergency or disaster; penalties; arson-related claims
12 suspension

13 A.

14 * * *

15 (5)(a) If an insured provides the insurer with an alternative damage estimate
16 from a Louisiana licensed contractor in which there is a discrepancy in damage
17 estimates equal to or greater than twenty-five percent of the insurer's estimate, the
18 insurer shall do one of the following:

19 (i) Accept the alternative damage estimate provided by the insured as the
20 agreed upon recalculated damage estimate.

1 (ii) Negotiate with the insured and agree upon a recalculated damage
2 estimate.

3 (iii) Conduct a new onsite adjustment within fifteen days of receiving the
4 insured's alternative damage estimate and provide a copy of the adjustment or a
5 structural engineer report to the insured within ten days of completing the
6 adjustment. If, after receiving the insurer's new adjustment or structural engineer
7 report, the insured and the insurer are unable to agree upon a damage estimate and
8 a court later determines that there is a discrepancy of twenty-five percent or greater
9 in the insurer's initial damage estimate and the court's damage estimate, the insured
10 shall be entitled to recover all costs associated with resolving the dispute including
11 but not limited to costs related to hiring a private adjuster or structural engineer.

12 (b) Nothing in this Paragraph shall preclude the insured from utilizing
13 another applicable provision of law to resolve the dispute.

14 B.(1) Failure to make such payment within thirty days after receipt of such
15 satisfactory written proofs and demand therefor or failure to make a written offer to
16 settle any property damage claim, including a third-party claim, within thirty days
17 after receipt of satisfactory proofs of loss of that claim, as provided in Paragraphs
18 (A)(1) and (4) of this Section, respectively, or failure to make such payment within
19 thirty days after written agreement or settlement as provided in Paragraph (A)(2) of
20 this Section when such failure is found to be arbitrary, capricious, or without
21 probable cause, shall subject the insurer to a penalty, in addition to the amount of the
22 loss, of fifty percent damages on the amount found to be due from the insurer to the
23 insured, or ~~one thousand~~ ten thousand dollars, whichever is greater, payable to the
24 insured, or to any of said employees, or in the event a partial payment or tender has
25 been made, fifty percent of the difference between the amount paid or tendered and
26 the amount found to be due as well as reasonable attorney fees and costs or ten
27 thousand dollars, whichever is greater. Such penalties, if awarded, shall not be used

1 by the insurer in computing either past or prospective loss experience for the purpose
2 of setting rates or making rate filings.

3 * * *

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 585 Engrossed

2021 Regular Session

Geymann

Abstract: Provides relative to claims settlement practices.

Proposed law provides that if an insured provides the insurer with an alternative adjustment with a discrepancy in damages equal to or greater than 25% of the insurer's estimate, the insurer shall do one of the following:

- (1) Accept the insured's damage estimate.
- (2) Negotiate with the insured and agree to a recalculated damage estimate.
- (3) Conduct a new onsite adjustment.

Proposed law provides that if the insured and insurer do not agree upon a damage estimate after the insurer conducts a new onsite adjustment and a court later determines that there is a discrepancy of 25% or greater in the insurer's original estimate and the court's estimate, the insured will be entitled to recover all costs associated with resolving the dispute.

Proposed law provides that nothing in proposed law shall preclude the insured from using another applicable provision of law to resolve the dispute.

Present law provides that failure to make 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, within 30 days after receipt of satisfactory proofs of loss of that claim, or failure to make such payment within 30 days after written agreement or settlement, shall subject the insurer to a penalty of 50% damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater, or in the event a partial payment or tender has been made, 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 increases the penalty in present law for failure to make a payment or written offer to settle from 50% damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater to 50% damages on the amount found to be due from the insurer to the insured, or \$10,000, whichever is greater. Proposed law also increases the penalty for making a partial payment 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 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 or \$10,000, whichever is greater.

(Amends R.S. 22:1892(B)(1); Adds R.S. 22:1892(A)(5))

Summary of Amendments Adopted by House

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

1. Restore the time frames prescribed in present law in which insurers must pay the amount due on claims, initiate loss adjustment of a property damage claim and a claim for reasonable medical expenses, and make a written offer to settle property damage claims.
2. Change the process in proposed law for which insurers shall follow if an insured provides the insurer with an alternative adjustment with a discrepancy in damages.
3. Delete proposed law concerning the commissioner being personally liable for failing to ensure insurers comply with certain provisions of law.
4. Restore the damages amounts a claimant is entitled to in present law when an insurer breaches certain imposed duties.