

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 591

2021 Regular Session

Firmert

INSURANCE CLAIMS: Provides for certain claims settlement practices

### Synopsis of Senate Amendments

1. Provides that the term "damaged property" does not include vehicles for the purposes of the provisions in proposed law concerning depreciated property.
2. Provides that present law and proposed law do not create any civil action, cause of action, or penalty against authorized insurers, their employees, or vendors.
3. Provides that residential property policies providing adjustment and settlement of first-party losses based on repair or replacement cost shall offer the replacement of damaged property provisions in proposed law beginning June 1, 2022, unless otherwise provided by the policy.
4. Authorizes the insurer to consider the cost of repairing or replacing undamaged portions of the property, uniformity of appearance that can be achieved without such cost, and the remaining usefulness of the undamaged portion, when determining if items in the adjoining area of a damaged item should be replaced.
5. Provides that present law and proposed law do not make the insurer a warrantor of repairs.
6. Requires the appraisal provision in proposed law to be included in residential property insurance policies beginning June 1, 2022.
7. Provides that if an amount of loss is set by a written agreement signed by the umpire and one party's appraiser, neither party is precluded from exercising his rights under the policy or the law.
8. Provides that if there is an appraisal award, all applicable policy terms, limits, deductibles, and conditions still apply.
9. Provides that a lawsuit cannot be filed against the insurer during the appraisal process.
10. Provides that if a lawsuit is filed against the insurer prior to the demand of appraisal, the suit will be held in abatement until the execution of an appraisal award.

### Digest of Bill as Finally Passed by Senate

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

Proposed law provides that insurance policies covering damaged property and allowing 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 requires that depreciation be reasonable and based on a combination of objective criteria and subjective assessment including the actual condition of the property prior to the loss.

Proposed law provides that present law and proposed law do not create any civil action, create any cause of action, or penalty against an authorized insurer, its employees or vendors not otherwise provided in law.

Proposed law prohibits insurers from requiring 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 prohibits insurers from recommending 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 contractors' 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 beginning June 1, 2022, the following coverage shall be offered on residential policies providing for the adjustment and settlement of first-party losses based on repair or 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, the insurer shall make reasonable repairs or replacement of items in the adjoining areas, in consideration of the cost of repairing or replacing undamaged portions of the property, uniformity of appearance that can be achieved without such cost, and the remaining usefulness of the undamaged portion.

Proposed law provides that present law and proposed law do not make the insurer a warrantor of repairs.

Proposed law provides a mediation process through appraisal for situations in which the insurer and insured disagree on the amount of a loss.

Proposed law provides model language for the appraisal provision required in residential property insurance policies beginning June 1, 2022.

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