AN ACT

To amend and reenact R.S. 51:451(A) and to enact R.S. 22:1964(31), R.S. 37:2175.3(A)(12) through (14) and (B)(3), and R.S. 51:452, relative to property insurance; to prohibit contractors from engaging in certain acts related to an insured's property insurance claim; to provide for penalties; to prohibit sellers of goods and services from assisting in paying an insured's deductible; to provide contract language advising insureds of their duty to pay their property insurance deductible; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1964(31) is hereby enacted to read as follows:

§1964. Methods, acts, and practices which are defined as unfair or deceptive The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

*   *   *

(31) Any violation of R.S. 37:2175.3(A)(12) or (13);

Section 2. R.S. 37:2175.3(A)(12) through (14) and (B)(3) are hereby enacted to read as follows:

§2175.3. Home improvement contracting; prohibited acts; violations

A. The following acts are prohibited by persons performing home improvement contracting services:

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(12) Interpreting insurance policy provisions or advising an insured regarding coverage or duties under the insured's property insurance policy. A contractor shall be considered to have violated the provisions of this Paragraph if a person working on behalf of the contractor including but not limited to a compensated employee or a nonemployee who is compensated by the contractor violates the provisions of this Paragraph.

(13) Adjusting a property insurance claim on behalf of an insured. A contractor shall be considered to have violated the provisions of this Paragraph if a person working on behalf of the contractor including but not limited to a compensated employee or a nonemployee who is compensated by the contractor violates the provisions of this Paragraph.

(14) Providing an insured with an agreement authorizing repairs without providing a good faith estimate of the itemized and detailed costs of services and materials for repairs undertaken pursuant to a property damage claim. A contractor shall be considered to have violated the provisions of this Paragraph if a person working on behalf of the contractor including but not limited to a compensated employee or a nonemployee who is compensated by the contractor violates the provisions of this Paragraph. A contractor does not violate this Paragraph if, as a result of the insurer adjusting a claim, the actual cost of repairs differs from the initial estimate.

B.

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(3) In addition to administrative sanctions as provided in this Part, violation of Paragraph (A)(12) or (A)(13) of this Section shall constitute an unfair trade practice pursuant to R.S. 22:1964, and the penalties contained in R.S. 22:1969 may be enforced against the violator by the commissioner of insurance.

Section 3. R.S. 51:451(A) is hereby amended and reenacted and R.S. 51:452 is enacted to read as follows:

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§451. Payments and rebates charged against insurance deductibles; sellers of goods or services prohibited

A. No person selling or engaged in the sale of goods or services shall:

(1) Advertise or promise to provide goods or services or advertise or promise to provide goods or services to an insured in a transaction in which the goods or services will be paid for by the insured from the proceeds of a property insurance claim and the person selling the goods or services, without the insurer's consent, will do any of the following:

(a) Pay, waive, absorb, or otherwise decline to charge or collect the amount of the insured's deductible.

(b) Provide a rebate or credit in connection with the sale of the goods or services that will offset all or part of the amount paid by the insured as a deductible.

(c) In any manner, assist the insured in avoiding monetary payment of the insured's deductible.

(2) Offer to pay, pay, or rebate all or part of any insurance deductible, under a property or casualty insurance policy, to a consumer as part of any arrangement for goods and services paid for by the consumer from proceeds of a property or casualty insurance policy.

(3) Charge an amount, for such goods or services, that exceeds the usual and customary charge by an amount equal to or greater than all or part of the applicable insurance deductible paid.

* * *

§452. Contract paid with insurance policy proceeds; notice required

A contract to provide goods or services that is reasonably expected to be paid wholly or partly with the proceeds from a claim under a property insurance policy and has a contract price of one thousand dollars or more shall contain the following notice in at least twelve-point boldfaced type: "Louisiana law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Louisiana law for a seller of goods or

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services who reasonably expects to be paid wholly or partly from the proceeds of a
property insurance claim to knowingly allow the insured person to fail to pay, or
assist in the insured person's failure to pay the applicable insurance deductible."

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 539 Engrossed 2022 Regular Session Firment

Abstract: Provides for property insurance policies.

Present law provides certain conduct that is considered to be an unfair method or
competition and unfair or deceptive act or practice in the business of insurance.

Proposed law retains present law and provides that violation of proposed law (R.S.
37:2175.3(A)(12) and (13)) shall be considered to be an unfair method or competition and
unfair or deceptive act or practice in the business of insurance.

Present law prohibits persons performing home improvement contracting from engaging in
certain acts.

Proposed law retains present law and prohibits persons performing home improvement
contracting from engaging in the following acts:

(1) Interpreting insurance policy provisions or advising an insured regarding coverage
or duties under the insured's property insurance policy.

(2) Adjusting a property insurance claim on behalf of an insured.

(3) Providing an insured with an agreement authorizing repairs without providing a good
faith estimate of the itemized and detailed cost of services and materials for repairs
undertaken pursuant to a property damage claim.

Proposed law provides that in addition to administrative sanctions, violation of proposed law
(R.S. 37:2175.3(A)(12) and (13)) shall constitute an unfair trade practice, and the penalties
contained in present law (R.S. 22:1969) may be enforced by the commissioner of insurance.

Present law provides that no person selling or engaging in the sale of goods or services shall
advertise or promise to provide goods or services or offer to pay, pay, or rebate any part of
an insurance deductible as part of an arrangement for goods and services paid for with
proceeds from an insurance policy.

Proposed law repeals present law and provides that no person selling or engaging in the sale
of goods or services shall provide a good or service or advertise or promise to provide goods
or services to an insured in a transaction in which the good or service will be paid for with
proceeds of a property insurance claim and the person selling the good or service, without
the insurer's consent, will do any of the following:

(1) Pay, waive, absorb, or otherwise decline to charge or collect the amount of the
insured's deductible.

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are additions.
(2) Provide a rebate or credit in connection with the sale of a good or service that will offset all or part of the amount paid by the insured as a deductible.

(3) In any manner, assist the insured in avoiding monetary payment of the required insurance deductible.

Proposed law provides language for a notice that shall be included in contracts to provide a good or service that is reasonably expected to be paid with proceeds from a claim under an insurance policy.

(Amends R.S. 51:451(A); Adds R.S. 22:1964(A)(31), R.S. 37:2175.3(A)(12)-(14) and (B)(3), and R.S. 51:452)

Summary of Amendments Adopted by House

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

1. Remove provisions of proposed law regarding the adjustment and settlement of first-party loss based on repair or replacement costs.

2. Provide that a violation of proposed law (R.S. 37:2175.3(A)(12) and (13)) shall be considered an unfair trade practice and provides the penalties for violation of proposed law.

3. Remove an exception from proposed law (R.S. 37:2175.3(A)(13)) for contractors who have a public adjuster license.

4. Make technical changes.