

2022 Regular Session

HOUSE BILL NO. 539

BY REPRESENTATIVE FIRMENT

INSURANCE/POLICIES: Provides for property insurance policies

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:2175.3(A)(12) through (14) is hereby enacted to read as follows:

10 §2175.3. Home improvement contracting; prohibited acts; violations

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

13 * * *

14 (12) Interpreting insurance policy provisions regarding coverage or duties
15 under an insured's property insurance policy. A contractor shall be considered to
16 have violated the provisions of this Paragraph if a person working on behalf of the
17 contractor including but not limited to a compensated employee or a nonemployee
18 who is compensated by the contractor violates the provisions of this Paragraph.

19 (13) Adjusting a property insurance claim on behalf of an insured as an
20 adjuster, as defined in R.S. 22:1661. A contractor shall be considered to have
21 violated the provisions of this Paragraph if a person working on behalf of the

1 contractor including but not limited to a compensated employee or a nonemployee
2 who is compensated by the contractor violates the provisions of this Paragraph.

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

12 * * *

13 Section 2. R.S. 51:451(A) is hereby amended and reenacted and R.S. 51:452 is
14 hereby enacted to read as follows:

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

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

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

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

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

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

- (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.

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.
- (2) Provide a rebate 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. 37:2175.3(A)(12)-(14) 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.

The House Floor Amendments to the engrossed bill:

1. Restore present law (R.S. 22:1964 and R.S. 37:2175.3(B)).
2. Provide that persons performing home improvement contracting services shall not interpret insurance policy provisions regarding coverage or duties under an insured's property insurance policy.
3. Provide that persons performing home improvement contracting services shall not adjust a property insurance claim on behalf of an insured as an adjuster, as defined in present law (R.S. 22:1661).

4. Provide that persons selling or engaging in the sale of goods or services shall not provide a rebate in connection with the sale of the goods or services that will offset the amount paid by the insured as a deductible, if the goods or services are paid with proceeds of a property insurance claim and the person does not have consent to do such from the insurer.
5. Make technical changes.