

2022 Regular Session

SENATE RESOLUTION NO. 140

BY SENATOR STINE

INSURANCE COMMISSIONER. Urges the Commissioner of Insurance to study the issue of insurers failing to timely pay property damage claims after a presidentially or gubernatorially declared disaster or emergency.

1 A RESOLUTION

2 To urge and request the Commissioner of Insurance to study the issue of insurers failing to
3 timely pay property damage claims after a presidentially or gubernatorially declared
4 disaster or emergency.

5 WHEREAS, R.S. 22:41(13) requires an insurer pay property damage claims within
6 thirty days after satisfactory proof of loss is provided, and if an insurer fails to pay within
7 thirty days, the insurer can be deemed in violation of R.S. 22:1892 and 1973; and

8 WHEREAS, an insurer is required to pay a property damage claim within thirty days,
9 and if an insurer fails to pay within thirty days, an insurer owes his policyholder the amount
10 of loss found due, along with paying his policyholder fifty percent on the amount due or one
11 thousand dollars, whichever is greater, or if a partial payment is made, fifty percent of the
12 difference between the amount paid and the amount of loss, as well as reasonable attorney
13 fees and costs when such failure is found to be arbitrary, capricious, or without probable
14 cause according to R.S. 22:1892(B)(1)(a); and

15 WHEREAS, effective August 1, 2021, if a presidentially or gubernatorially disaster
16 or emergency is declared, an insurer is required to pay a property damage claim within thirty
17 days, and if an insurer fails to pay within thirty days, the insurer owes his policyholder the
18 amount of loss found due, along with paying his policyholder fifty percent on the amount

1 due or two thousand five hundred dollars or whichever is greater, or if a partial payment is
2 made, fifty percent of the difference between the amount paid and the amount of loss, along
3 with paying reasonable attorney fees and costs, or two thousand five hundred dollars,
4 whichever is greater pursuant to R.S. 22:1973 and 1892(B)(1)(b); and

5 WHEREAS, policyholders in this state have struggled with insurance companies to
6 rebuild and recover from the devastation caused by hurricanes Laura, Delta, Zeta, and Ida
7 as a result of insurers failing to pay property damage claims within thirty days as required
8 by R.S. 22:41(13), 1892, and 1973; and

9 WHEREAS, policyholders have resorted to hiring attorneys, public adjusters, and
10 filing nearly six thousand seven hundred complaints with the Commissioner of Insurance
11 in hopes that their insurer will pay the property damage claims owed in order for them to
12 once again live in their own homes; and

13 WHEREAS, an insurer owes his policyholder a duty of good faith and fair dealing,
14 which includes paying a settlement within thirty days after an agreement is reduced to
15 writing, and if an insurer breaches this duty, the insurer may owe, in addition to any general
16 or special damages to which a policyholder is entitled for breach of the imposed duty,
17 penalties assessed against the insurer in an amount not to exceed two times the damages
18 sustained or five thousand dollars, whichever is greater pursuant to R.S. 22:1973; and

19 WHEREAS, ensuring there are effective legal remedies to provide punitive damages
20 that discourage insurers from acting in bad faith following a presidentially or gubernatorially
21 disaster or emergency is a critical public policy priority of this state; and

22 WHEREAS, it is the intent of the Legislature of Louisiana that our citizens have
23 access to a healthy, competitive insurance market with insurers that treat policyholders fairly
24 and with good faith and pay property damage claims in a timely manner.

25 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
26 does hereby urge and request the Commissioner of Insurance to study the issue of insurers
27 failing to timely pay property damage claims after a presidentially or gubernatorially
28 declared disaster or emergency and to report his findings and recommendations to the Senate
29 and House Committees on insurance not later than February 1, 2023.

30 BE IT FURTHER RESOLVED that in conducting the study, the Commissioner of

1 Insurance shall answer the following questions:

2 (1) What is the number of fifty percent damages penalties and the total dollar amount
3 paid pursuant to R.S. 22:1892(B)(1)(a) and (b) that have been awarded to policyholders from
4 each of the top twenty-five market share homeowners' insurers in this state since 2020 on
5 claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

6 (2) What is the number of fifty percent damages penalties and the total dollar amount
7 paid pursuant to R.S. 22:1892(B)(1)(a) and (b) that have been awarded to policyholders from
8 each of the top twenty-five market share commercial property insurers in Louisiana since
9 2020 on claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

10 (3) What is the number of two times damages penalties and the total dollar amount
11 paid pursuant to R.S. 22:1973(C) that have been awarded to policyholders from each of the
12 top twenty-five market share homeowners' insurers in Louisiana since 2020 on homeowner's
13 claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

14 (4) What is the total dollar amount of two times damages penalties and the total
15 dollar amount paid pursuant to R.S. 22:1973(C) that have been awarded to policyholders
16 from each of the top twenty-five market share commercial insurers in this state since 2020
17 on homeowners' claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

18 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
19 Commissioner of Insurance.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Beth O'Quin

SR 140 Original	DIGEST 2022 Regular Session	Stine
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Requests the Commissioner of Insurance to study the issue of insurers failing to timely pay property damage claims after a presidentially or gubernatorially disaster or emergency has been declared.