

2023 Regular Session

SENATE BILL NO. 106

BY SENATOR SMITH

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

INSURANCE CLAIMS. Requires an insurer to permanently maintain certain records in connection to an insured's property damage insurance claim and made available to the insured upon request. (8/1/23)

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AN ACT

To amend and reenact R.S. 22:41(14) and to enact R.S. 22:1899, relative to a property damage insurance claim; to require an insurer provide an insured certain records in connection to a property damage insurance claim upon an insured's request; to provide exceptions; to require an insurer respond within a certain time period; to require an insurer to permanently maintain certain records in connection to a property damage insurance claim; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana

Section 1. R.S. 22:41(14) is hereby amended and reenacted and R.S. 22:1899 is hereby enacted to read as follows:

§41. Policyholder bill of rights

The following items exist in Louisiana statutes and shall serve as standards for a policyholder bill of rights and do not create additional causes of actions or further penalties not otherwise provided under Louisiana statutes:

- (1) * * *

(14) Relative to first party property damage claims, policyholders shall have

1 the right to request and receive from the insurance company any estimates, bids,
 2 plans, measurements, drawings, engineer reports, contractor reports, statements,
 3 **photographs, video recordings, or any other** documents **or communications** that
 4 are not legally privileged that the insurance company prepared, had prepared, or used
 5 during its adjustment of the policyholder's claim **in accordance with R.S. 22:1899**.
 6 ~~¶~~ **An insurance** company may keep confidential adjuster notes, logs, and any **other**
 7 documents **or communications** prepared in conjunction with a fraud investigation
 8 **in accordance with the provisions of R.S. 22:1899**.

9 * * *

10 **§1899. Record request; record retention; penalties**

11 **A. An insurer shall make available upon the written request of an**
 12 **insured any estimates, bids, plans, measurements, drawings, engineer reports,**
 13 **contractor reports, statements, photographs, video recordings, or any other**
 14 **documents or communications unless the record is legally privileged that the**
 15 **insurer prepared, had prepared, or used during its adjustment of the insured's**
 16 **claim, or an insurer may keep confidential any adjuster notes, logs, and any**
 17 **other documents or communications prepared in conjunction with a fraud**
 18 **investigation.**

19 **B.(1) An insured shall make a written request to the insurer for any**
 20 **records in connection to the insured's property damage insurance claim**
 21 **pursuant to Subsection A of this Section. An insured may mail or hand deliver**
 22 **the written request to the insurer.**

23 **(2) An insurer shall respond to the insured's request within fifteen days**
 24 **upon receipt. An insurer shall provide a copy of any record requested by an**
 25 **insured unless the record is legally privileged, or confidential pursuant to**
 26 **Subsection A of this Section.**

27 **C. The insurer shall permanently maintain any records defined in**
 28 **Subsection A of this Section.**

1 **D. A violation of this Section shall constitute a breach of an insurer's**
 2 **duty of good faith and fair dealing that is owed to an insured. An insurer in**
 3 **violation of this Section shall be subject to the penalties set forth in R.S.**
 4 **22:1973.**

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

DIGEST

SB 106 Original 2023 Regular Session Smith

Present law provides a policyholder has a right to request and receive from his insurance company any estimates, bids, plans, measurements, drawings, engineer reports, contractor reports, statements, or documents that are in connection to the insured's property damage insurance claim unless the record is legally privileged that the insurer prepared, had prepared, or used in adjusting a policyholder's claim. Present law provides an insurance company is authorized to keep confidential any adjuster notes, logs, and any other document prepared in conjunction with a fraud investigation.

Proposed law retains present law but adds photographs, video recordings, and communications. Proposed law retains present law but adds communications to legally privileged and confidential as provided by proposed law.

Present law does not require an insurer provide an insured any records included in the policyholder bill of rights.

Proposed law provides an insured has the right to request and receive from an insurer any estimates, bids, plans, measurements, drawings, engineer reports, contractor reports, statements, photographs, video recordings, documents, or communications in connection to the insured's property damage insurance claim, unless the record is legally privileged that an insurer prepared, had prepared, or used during its adjustment of the insured's claim. Proposed law authorizes an insurer is allowed to keep confidential any adjuster notes, logs, and other documents or communications prepared in conjunction with a fraud investigation.

Proposed law requires an insured make a written request to his insurer for any records required by proposed law. Provides the insured is authorized to mail or to hand deliver the records request to the insurer.

Proposed law requires an insurer respond within 15 days upon receipt of an insured's records request. Requires an insurer make copies of any records an insured requested unless the record is legally privileged or confidential as provided by proposed law.

Proposed law requires an insurer to permanently maintain records provided for by proposed law.

Proposed law provides a breach of the proposed law is a breach of an insurer's duty of good faith and fair dealing that subjects an insurer to penalties set forth in law.

Effective August 1, 2023.

(Amends R.S. 22:41(14); adds R.S. 22:1899)