

HOUSE COMMITTEE AMENDMENTS

2023 Regular Session

Amendments proposed by House Committee on Insurance to Original House Bill No. 604
by Representative Garofalo

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" insert "R.S. 22:821(B)(34)(introductory paragraph),
3 1311(F)(2), 1892(G), and"

4 AMENDMENT NO. 2

5 On page 1, line 4, after "registration;" insert "to modify relative to appraisal clauses within
6 residential property and fire insurance policies;"

7 AMENDMENT NO. 3

8 On page 1, line 11, after "Section 1." insert "R.S. 22:821(B)(34)(introductory paragraph),
9 1311(F)(2), 1892(G), and"

10 AMENDMENT NO. 4

11 On page 1, line 12, change "is hereby" to "are hereby"

12 AMENDMENT NO. 6

13 On page 1, between lines 13 and 14, insert the following:

14 "§821. Fees

15 * * *

16 B. The commissioner shall collect the following fees in advance:

17 * * *

18 (34) For appraisers and umpires (one fee for either or both):

19 * * *

20 §1311. Fire insurance contract; standard provisions; variations

21 * * *

22 F. The form of the standard fire insurance policy of the state of Louisiana
23 (with permission to substitute for the word "company" a more accurate descriptive
24 term for the type of insurer) shall be as follows:

25 * * *

26 (2) SECOND PAGE OF STANDARD FIRE POLICY

27 Concealment, fraud-This entire policy shall be void if, whether before or after
28 a loss, the insured has willfully concealed or misrepresented any material fact or
29 circumstance concerning this insurance or the subject thereof, or the interest of the
30 insured therein, or in case of any fraud or false swearing by the insured relating
31 thereto.

32 Uninsurable and excepted property-This policy shall not cover accounts,
33 bills, currency, deeds, evidence of debt, money, or securities; nor, unless specifically
34 named hereon in writing, bullion, or manuscripts.

35 Perils not included-This company shall not be liable for loss by fire or other
36 perils insured against in this policy caused, directly or indirectly, by:

- 37 (a) enemy attack by armed forces, including action taken by military, naval,
38 or air forces in resisting an actual or an immediately impending enemy attack; (b)

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are additions.

1 invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped
 2 power; (h) order of any civil authority except acts of destruction at the time of and
 3 for the purpose of preventing the spread of fire, provided that such fire did not
 4 originate from any of the perils excluded by this policy; (i) neglect of the insured to
 5 use all reasonable means to save and preserve the property at and after a loss, or
 6 when the property is endangered by fire in neighboring premises; (j) nor shall this
 7 Company be liable for loss by theft.

8 Other insurance-Other insurance may be prohibited or the amount of
 9 insurance may be limited by endorsement attached hereto.

10 Conditions suspending or restricting insurance-Unless otherwise provided in
 11 writing added hereto, this Company shall not be liable for loss occurring:

12 (a) While the hazard is increased by any means within the control or
 13 knowledge of the insured; or

14 (b) While a described building, whether intended for occupancy by owner
 15 or tenant, is vacant, or unoccupied beyond a period of sixty consecutive days; or

16 (c) As a result of explosion or riot, unless fire ensues, and in that event for
 17 loss by fire only.

18 Other perils or subjects-Any other peril to be insured against or subject of
 19 insurance to be covered in this policy shall be by endorsement in writing hereon or
 20 added hereto.

21 Added provisions-The extent of the application of insurance under this policy
 22 and of the contribution to be made by this Company in case of loss, and any other
 23 provision or agreement not inconsistent with the provisions of this policy, may be
 24 provided for in writing added hereto, but no provisions may be waived except such
 25 as by the terms of this policy is subject to change.

26 Waiver provisions-No permission affecting this insurance shall exist, or
 27 waiver of any provision be valid unless granted herein or expressed in writing added
 28 hereto. No provision, stipulation, or forfeiture shall be held to be waived by any
 29 requirement or proceeding on the part of this Company relating to appraisal or to any
 30 examination provided for herein.

31 Cancellation of policy-This policy shall be canceled at any time at the request
 32 of the insured, in which case this Company shall, upon demand and surrender of this
 33 policy, refund the excess of paid premium above the customary short rates for the
 34 expired time. This policy may be canceled at any time by this Company by giving
 35 to the insured a thirty-day written notice of cancellation, or ten-day written notice
 36 when cancellation is for nonpayment of premium, with or without tender of the
 37 excess paid premium above the pro rata premium for the expired time which excess,
 38 if not tendered, shall be refunded on demand. Notice of cancellation shall state that
 39 said excess premium, if not tendered, will be refunded on demand. Upon the written
 40 request of the named insured, the insurer shall provide to the insured in writing the
 41 reasons for cancellation of the policy. There shall be no liability on the part of and
 42 no cause of action of any nature shall arise against any insurer or its agents,
 43 employees, or representatives for any action taken by them to provide the reasons for
 44 cancellation as required by this Paragraph.

45 Mortgagee interest and obligations-If loss hereunder is made payable in
 46 whole or in part, to a designated mortgagee not named herein as the insured, such
 47 interest in this policy may be canceled by delivering or mailing to such mortgagee
 48 a thirty-day written notice of cancellation, or a ten-day written notice of cancellation
 49 if cancellation is for nonpayment of premium.

50 If the insured fails to render proof of loss such mortgagee, upon notice, shall
 51 render proof of loss in form herein specified within sixty (60) days thereafter and
 52 shall be subject to the provisions hereof relating to appraisal and time of payment
 53 and of bringing suit. If this Company shall claim that no liability existed as to the
 54 mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be
 55 subrogated to all the mortgagee's rights of recovery, but without impairing
 56 mortgagee's rights to sue; or it may pay off the mortgage debt and require an
 57 assignment thereof and of the mortgage. Other provisions relating to the interests
 58 and obligations of such mortgagee may be added hereto by agreement in writing.

1 Pro rata liability-This Company shall not be liable for a greater proportion
2 of any loss than the amount hereby insured shall bear to the whole insurance
3 covering the property against the peril involved, whether collectible or not.

4 Requirements in case loss occurs-The insured shall give immediate written
5 notice to this Company of any loss, protect the property from further damage,
6 forthwith separate the damaged and undamaged personal property, put it in the best
7 possible order, furnish a complete inventory of the destroyed, damaged, and
8 undamaged property, showing in detail quantities, costs, actual cash value, and
9 amount of loss claimed; and within sixty days after loss, unless such time is extended
10 in writing by this Company, the insured shall render to this Company a proof of loss,
11 signed and sworn to by the insured, stating the knowledge and belief of the insured
12 as to the following: the time and origin of the loss, the interest of the insured and of
13 all others in the property, the actual cash value of each item thereof and the amount
14 of loss thereto, all encumbrances thereon, all other contracts of insurance, whether
15 valid or not, covering any of said property, any changes in the title, use, occupation,
16 location, possession, or exposures of said property since the issuing of this policy,
17 by whom and for what purpose any building herein described and the several parts
18 thereof were occupied at the time of loss and whether or not it then stood on leased
19 ground, and shall furnish a copy of all the descriptions and schedules in all policies
20 and, if required, verified plans and specifications of any building, fixtures, or
21 machinery destroyed or damaged. The insured, as often as may be reasonably
22 required shall exhibit to any person designated by this Company all that remains of
23 any property herein described, and submit to examinations under oath by any person
24 named by this Company, and subscribe the same; and, as often as may be reasonably
25 required, shall produce for examination all books of account, bills, invoices and other
26 vouchers, or certified copies thereof if originals be lost, at such reasonable time and
27 place as may be designated by this Company or its representatives, and shall permit
28 extracts and copies thereof to be made.

29 Appraisal-In case the insured and this Company shall fail to agree as to the
30 actual cash value or the amount of loss, then, on the written demand of either, each
31 shall select a competent and disinterested appraiser and notify the other of the
32 appraiser selected within twenty days of such demand. The appraisers shall first
33 select a competent and disinterested umpire; and failing for fifteen days to agree
34 upon such umpire, then on request of the insured or this Company such umpire shall
35 be selected by the commissioner of insurance or, if a lawsuit is filed, a judge of a
36 court of record in the state in which the property covered is located, pursuant to law.
37 The appraisers shall then appraise the loss, stating separately actual cash value and
38 loss to each item, and failing to agree, shall submit their differences, only, to the
39 umpire. An award in writing, so itemized, of any two when filed with this Company
40 shall determine the amount of actual cash value and loss. Each appraiser shall be
41 paid by the party selecting him and the expenses of appraisal and umpire shall be
42 paid by the parties equally. The decision of the appraisers, or of an appraiser and the
43 umpire, shall be binding on the parties.

44 Company's options-It shall be optional with this Company to take all, or any
45 part, of the property at the agreed or appraised value, and also to repair, rebuild, or
46 replace the property destroyed or damaged with other of like kind and quality within
47 a reasonable time, on giving notice of its intention to do so within thirty days after
48 the receipt of the proof of loss herein required.

49 Abandonment-There can be no abandonment to this Company of any
50 property.

51 When loss payable-The amount of loss for which this Company may be liable
52 shall be payable thirty days after proof of loss, as herein provided, is received by this
53 Company and ascertainment of the loss is made either by agreement between the
54 insured and this Company expressed in writing or by filing with this Company of an
55 award as herein provided.

56 Suit-No suit or action on this policy for the recovery of any first-party claim
57 shall be sustainable in any court of law or equity unless all the requirements of this
58 policy shall have been complied with, and unless commenced within twenty-four
59 months next after the inception of the loss.

1 Subrogation-This Company may require from the insured an assignment of
2 all right of recovery against any party for loss to the extent that payment therefor is
3 made by this Company.

4 * * *

5 AMENDMENT NO. 7

6 On page 1, line 18, after "to be," delete the remainder of the line and insert in lieu thereof
7 "either an appraiser or an umpire in"

8 AMENDMENT NO. 8

9 On page 1, delete line 20 in its entirety and insert in lieu thereof "~~such~~ the person is
10 registered with the commissioner ~~of insurance~~ as an appraiser or an umpire, or both."

11 AMENDMENT NO. 9

12 On page 2, line 18, after "appraiser" insert "or an umpire"

13 AMENDMENT NO. 10

14 On page 3, line 4, after "by the" delete the remainder of the line and delete line 5 in its
15 entirety and insert in lieu thereof "appraisers, the commissioner, or a judge to participate in
16 the appraisal process."

17 AMENDMENT NO. 11

18 On page 3, delete lines 21 and 22 in their entirety and insert in lieu thereof the following:

19 "B. Each party shall pay the fees charged by his appraiser."

20 AMENDMENT NO. 12

21 On page 3, line 26, delete "commissioner" and insert in lieu thereof "commissioner, or if the
22 claim is pending litigation, the judge,"

23 AMENDMENT NO. 13

24 On page 4, delete lines 3 and 4 in their entirety and insert in lieu thereof the following:

25 "(c) The insurer's itemized estimate and a statement of payments to date."

26 AMENDMENT NO. 14

27 On page 4, line 15, change "with" to "with at least three years of"

28 AMENDMENT NO. 15

29 On page 4, line 17, change "with" to "with at least three years of"

30 AMENDMENT NO. 16

31 On page 4, line 19, change "with" to "with at least three years of"

32 AMENDMENT NO. 17

33 On page 5, between lines 5 and 6, insert the following:

34 "(f) A current employee of a law firm handling property damage litigation."

1 AMENDMENT NO. 18

2 On page 6, delete line 9 in its entirety

3 AMENDMENT NO. 19

4 On page 6, line 10, change "(3)" to "(2)"

5 AMENDMENT NO. 20

6 On page 6, line 12, change "(4)" to "(3)"

7 AMENDMENT NO. 21

8 On page 6, line 13, change "(5)" to "(4)"

9 AMENDMENT NO. 22

10 On page 6, between lines 19 and 20, insert the following:

11 "(4) Charge the parties on a contingent fee basis, percentage of the decision,
12 barter arrangement, gift, favor, or in-kind exchange."

13 AMENDMENT NO. 23

14 On page 6, line 24, change "with" to "with at least three years of"

15 AMENDMENT NO. 24

16 On page 6, line 26, change "with" to "with at least three years of"

17 AMENDMENT NO. 25

18 On page 6, line 28, change "with" to "with at least three years of"

19 AMENDMENT NO. 26

20 On page 7, line 1, delete "Louisiana." and insert in lieu thereof "Louisiana with experience
21 in first-party property damage litigation."

22 AMENDMENT NO. 27

23 On page 8, between lines 20 and 21, insert the following:

24 "(9) The umpire is a current employee of a law firm handling property
25 damage litigation."

26 AMENDMENT NO. 28

27 On page 8, line 21, change "(9)" to "(10)"

28 AMENDMENT NO. 29

29 On page 11, line 26, delete "insurer" and insert in lieu thereof "appraisers"

30 AMENDMENT NO. 30

31 On page 14, line 6, delete "half of all" and insert in lieu thereof "the"

1 AMENDMENT NO. 31

2 On page 15, delete lines 12 through 16 in their entirety and insert in lieu thereof the
3 following:

4 "A.(1) Each party is responsible for his own appraiser fees and expenses.
5
6 (2) Each party shall pay half of the reasonable and necessary costs incurred
7 for the umpire's fee and expenses."

8 AMENDMENT NO. 32

9 On page 16, line 15, change "three days" to "ten days"

10 AMENDMENT NO. 33

11 On page 17, line 6, delete "R.S. 22:1807.25" and insert in lieu thereof "R.S. 22:1807.25, or
12 if the claim is pending litigation, to the judge,"

13 AMENDMENT NO. 34

14 On page 17, after line 16, insert the following:

15 " * * *
16 "§1892. Payment and adjustment of claims, policies other than life and health and
17 accident; vehicle damage claims; extension of time to respond to claims
18 during emergency or disaster; penalties; arson-related claims suspension

19 * * *

20 G. Residential property insurance policies shall contain the following
21 provision, with permission to substitute the words "this company" with a more
22 accurate descriptive term for the insurer:

23 "Appraisal. If you and this Company fail to agree as to the amount of loss,
24 either party may demand that the amount of the loss be set by appraisal. If either
25 party makes a written demand for appraisal, each party shall select a competent
26 appraiser and notify the other party of their appraiser's identity within twenty days
27 of receipt of the written demand for appraisal. The appraisers shall select a
28 competent and impartial umpire. If after fifteen days the appraisers have not agreed
29 upon who will serve as umpire, the umpire shall be appointed by the commissioner
30 of insurance or, if a lawsuit is filed, a judge of the court of record in which the
31 property is located, pursuant to law. The appraisers shall appraise the loss. If the
32 appraisers submit written notice of an agreement as to the amount of the loss to this
33 Company, the amount agreed upon shall set the amount of the loss. If the appraisers
34 fail to agree within thirty days, the appraisers shall submit their differences along
35 with any supporting documentation to the umpire, who shall appraise the loss. The
36 appraisers may extend the time to sixty days for which they shall agree upon the
37 amount of loss or submit their differences and supporting documents to the umpire,
38 if the extension is agreed to by the appraisers from both parties. A written agreement
39 signed by the umpire and either party's appraiser shall set the amount of the loss,
40 pursuant to the appraisal process, but shall not preclude either party from exercising
41 its rights under the policy or the law. Each appraiser shall be paid by the party
42 selecting that appraiser. Other expenses of the appraisal and the expenses of the
43 umpire shall be divided and paid in equal shares by you and this Company. If there
44 is an appraisal award, all applicable policy terms, limits, deductibles, and conditions
45 shall apply. If you file a lawsuit relative to this policy against this Company prior to
46 a demand for appraisal, the lawsuit will be held in abatement during the period
47 between a timely demand for appraisal and the deadline for execution of an appraisal

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are additions.

1 award, pursuant to this clause. The court of record in which the property is located
2 may enforce the deadlines of this clause, set a reasonable deadline for timely
3 demanding appraisal after all parties have filed pleadings in a lawsuit, and require
4 compliance with discovery and disclosure obligations relative to aspects of the
5 lawsuit unrelated to the appraisal."''