

2023 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE HUVAL AND SENATOR TALBOT

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

INSURANCE: Provides relative to bad faith claims against insurers

1 AN ACT

2 To amend and reenact R.S. 22:1892(A)(1) through (4) and (B)(1) and (4), and 1973(B)(5)

3 and (6), to enact R.S. 22:46(29) through (32) and 1892.2, and to repeal R.S.

4 22:1892(A)(5) and (6), (B)(6), and (E) through (G), relative to bad faith insurance

5 claims, to provide for remedies for policyholders against bad faith insurers; to

6 provide for definitions; to provide for the payment and adjustment of certain

7 insurance claims; to provide for the payment of any undisputed amount due on a

8 claim; to provide for the initiation of loss adjustment; to provide for authorization to

9 request specific documents; to provide for written notice; to provide for appraisal

10 procedures; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1892(A)(1) through (4), (B)(1) and (4), and 1973(B)(5) and (6)

13 are hereby amended and reenacted and R.S. 22:46(29) through (32) and 1892.2 are hereby

14 enacted to read as follows:

15 §46. General definitions

16 In this Code, unless the context requires, the following definitions apply:

17 \* \* \*

18 (29) "Arbitrary, capricious, or without reasonable cause" means the willful

19 refusal of a claim, in whole or in part, that is not based on a good faith reason.

1            (30) "Catastrophic loss" means a loss that arose from a natural disaster,  
 2            windstorm, or significant weather-related event that was a presidentially declared  
 3            emergency or disaster or a gubernatorially declared emergency or disaster.

4            (31) "Disinterested" means that a party does not have, nor has he ever had,  
 5            a pecuniary or monetary interest in the claim, a familial relationship with either  
 6            party, or an employee or employer relationship with either party.

7            (32) "Undisputed amount" means the amount of covered loss over which  
 8            reasonable minds could not differ.

9    \*           \*           \*

10          §1892. Payment and adjustment of claims, policies other than life, ~~and~~ health, and  
 11              accident; immovable property claims; vehicle damage claims; extension of  
 12              time to respond to claims during emergency or disaster; penalties; arson-  
 13              related claims suspension

14              A.(1) ~~All insurers~~ Insurers issuing any type of contract, other than those  
 15              specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised  
 16              Statutes of 1950, shall ~~pay~~ transmit payment of the undisputed amount of any claim  
 17              due to any insured within thirty days after receipt of satisfactory proofs of loss from  
 18              the insured or any party in interest. ~~The insurer shall notify the insurance producer~~  
 19              ~~of record of all such payments for property damage claims made in accordance with~~  
 20              ~~this Paragraph.~~ The provisions of R.S. 22:1892 do not apply to the payment and  
 21              adjustment of insurance policies that cover immovable property, which are governed  
 22              by R.S. 22:1892.2, or manufactured and modular homes as defined by R.S.  
 23              51:911.22.

24              (2) ~~All insurers~~ Insurers issuing any type of contract, other than those  
 25              specified in R.S. 22:1811, R.S. 22:1821, and Chapter 10 of Title 23 of the Louisiana  
 26              Revised Statutes of 1950, shall pay the amount of any third party property damage  
 27              claim and of any reasonable medical expenses claim due to any bona fide third party  
 28              claimant within thirty days after written agreement of settlement of the claim from  
 29              any third party claimant.

1           (3) Except in the case of catastrophic loss, the insurer shall initiate loss  
2           adjustment of a property damage claim ~~and~~ or of a claim for reasonable medical  
3           expenses within ~~fourteen~~ fifteen days after notification of loss by the claimant. In  
4           the case of catastrophic loss, the insurer shall initiate loss adjustment of a property  
5           damage claim within thirty days after notification of loss by the claimant except that  
6           the commissioner may promulgate a rule for extending the time period for initiating  
7           a loss adjustment for damages arising from a presidentially declared emergency or  
8           disaster or a gubernatorially declared emergency or disaster up to an additional thirty  
9           days. Thereafter, only one additional extension of the period of time for initiating  
10          a loss adjustment may be allowed and ~~must~~ shall be approved by the Senate  
11          Committee on Insurance and the House Committee on Insurance, voting separately.  
12          Failure to comply with the provisions of this Paragraph shall subject the insurer to  
13          the penalties provided in R.S. 22:1973.

14           (4) All insurers shall make a written offer to settle any property damage  
15          claim, including a third-party claim, within thirty days after receipt of satisfactory  
16          proofs of loss ~~of that claim~~.

17                               \*       \*       \*

18           B.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, failure  
19          to make such payment within thirty days after receipt of such satisfactory written  
20          proofs and demand therefor or failure to make a written offer to settle any property  
21          damage claim, including a third-party claim, within thirty days after receipt of  
22          satisfactory proofs of loss of that claim, as provided in Paragraphs (A)(1) and (4) of  
23          this Section, respectively, or failure to make such payment within thirty days after  
24          written agreement or settlement as provided in Paragraph (A)(2) of this Section when  
25          such failure is found to be arbitrary, capricious, or without ~~probable~~ reasonable  
26          cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of  
27          fifty percent damages on the amount found to be due from the insurer to the insured,  
28          or one thousand dollars, whichever is greater, payable to the insured, or in the event  
29          a partial payment or tender has been made, fifty percent of the difference between

1 the amount paid or tendered and the amount found to be due as well as reasonable  
2 attorney fees and costs. Such penalties, if awarded, shall not be used by the insurer  
3 in computing either past or prospective loss experience for the purpose of setting  
4 rates or making rate filings.

5 (b) In the case of a presidentially or gubernatorially declared disaster, failure  
6 to make such payment within thirty days after receipt of such satisfactory written  
7 proofs and demand therefor or failure to make a written offer to settle any property  
8 damage claim, including a third-party claim, within thirty days after receipt of  
9 satisfactory proofs of loss of that claim, as provided in Paragraphs (A)(1) and (4) of  
10 this Section, respectively, or failure to make such payment within thirty days after  
11 written agreement or settlement as provided in Paragraph (A)(2) of this Section when  
12 such failure is found to be arbitrary, capricious, or without ~~probable~~ reasonable  
13 cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of  
14 fifty percent damages on the amount found to be due from the insurer to the insured,  
15 or two thousand five hundred dollars, whichever is greater, payable to the insured,  
16 or in the event a partial payment or tender has been made, fifty percent of the  
17 difference between the amount paid or tendered and the amount found to be due as  
18 well as reasonable attorney fees and costs or two thousand five hundred dollars,  
19 whichever is greater. The penalties, if awarded, shall not be used by the insurer in  
20 computing either past or prospective loss experience for the purpose of setting rates  
21 or making rate filings.

22 (c) Claims for penalties and attorney fees pursuant to this Paragraph are  
23 subject to a liberative prescriptive period of two years.

24 \* \* \*

25 (4) Whenever a property damage claim is on a personal vehicle owned by  
26 the third party claimant and as a direct consequence of the inactions of the insurer  
27 and the third party claimant's loss the third party claimant is deprived of use of the  
28 personal vehicle for more than five working days, excluding Saturdays, Sundays, and  
29 holidays, the insurer responsible for payment of the claim shall pay, to the extent

1       legally responsible, for reasonable expenses incurred by the third party claimant in  
 2       obtaining alternative transportation for the entire period of time during which the  
 3       third party claimant is without the use of his personal vehicle. Failure to make such  
 4       payment within thirty days after receipt of adequate written proof and demand  
 5       therefor, when such failure is found to be arbitrary, capricious, or without ~~probable~~  
 6       reasonable cause shall subject the insurer to, in addition to the amount of such  
 7       reasonable expenses incurred, a reasonable penalty not to exceed ten percent of such  
 8       reasonable expenses or one thousand dollars whichever is greater together with  
 9       reasonable ~~attorneys~~ attorney fees for the collection of such expenses.

\*       \*       \*

11       §1892.2 Payment and adjustment of insurance policies that cover immovable  
 12       property; extension of time to respond to claims during emergency or  
 13       disaster; penalties; arson-related claims suspension

14       A.(1) Insurers adjusting an insurance policy that covers immovable property,  
 15       including manufactured and modular homes as defined by R.S. 51:911.22, shall  
 16       transmit payment of the undisputed amount of any claim due to any insured within  
 17       thirty days after receipt of satisfactory proof of loss from the insured or any party in  
 18       interest. The insurer shall notify the insurance producer of record of all such  
 19       payments for property damage claims made in accordance with this Paragraph.

20       (2) For purposes of this Section and for purposes of a claim for breach of  
 21       R.S. 22:1973(B)(5) relating to payment and adjustment of a first-party claim arising  
 22       under an insurance policy for immovable property, including manufactured and  
 23       modular homes as defined by R.S. 51:911.22, "satisfactory proof of loss" means the  
 24       insurer has received written proof that is sufficient to establish the extent of covered  
 25       damages and the amount due on an insurance claim including but not limited to  
 26       estimates, statements, repair receipts, invoices, and forms necessary to assess and  
 27       quantify the extent and amount of covered damages sustained by the insured. An  
 28       insurer may require completion of a signed statement in proof of loss as a condition  
 29       of its receipt of a satisfactory proof of loss. A signed statement in proof of loss is

1 based on the insured's knowledge of the claim at the time of the statement, and does  
2 not preclude the insured from submitting a new signed proof of loss statement if any  
3 additional, covered damages is discovered. An insurer is not deemed to have  
4 received satisfactory proof of loss until it has initiated a loss adjustment in  
5 accordance with Paragraph (3) of this Subsection.

6 (3)(a) Except in the case of catastrophic loss, the insurer shall acknowledge  
7 receipt of a claim, initiate loss adjustment of a property damage claim, and request  
8 from the insured any items, statements, and forms that the insurer reasonably  
9 believes, at that time, will be required from the insured within fifteen days after  
10 notification of loss by the insured. The insurer shall send acknowledgment of its  
11 receipt to the insured either by United States mail, private commercial carrier,  
12 electronic delivery, or hand delivery.

13 (b) Except in the case of catastrophic loss, failure to initiate loss adjustment  
14 of a property damage claim within fifteen days after notification of loss by the  
15 insured in accordance with Subparagraph (a) of this Paragraph shall subject the  
16 insurer to the penalties provided in R.S. 22:1973.

17 (c) Notwithstanding the provisions of R.S. 22:1312, in the case of  
18 catastrophic loss, the insurer shall acknowledge receipt of a claim, initiate loss  
19 adjustment of the property damage claim, and request from the insured any items,  
20 statements, and forms that the insurer reasonably believes, at that time, will be  
21 required from the insured within thirty days after notification of loss by the insured.  
22 However, the commissioner may promulgate and adopt a rule in accordance with the  
23 Administrative Procedure Act to extend the time period up to an additional thirty  
24 days for an insurer to initiate a loss adjustment claim for damages arising from a  
25 presidentially declared emergency or disaster or a gubernatorially declared  
26 emergency or disaster. Thereafter, only one additional extension of the period of  
27 time for initiating a loss adjustment may be allowed and shall be approved by the  
28 Senate Committee on Insurance and the House Committee on Insurance, voting  
29 separately. Failure to comply with the provisions of this Paragraph shall subject the

1 insurer to the penalties provided in R.S. 22:1973. In such cases that an insurer  
2 requires a signed statement in proof of loss as a condition of satisfactory proof of  
3 loss, the insurer shall provide the insured a form on which the insured shall submit  
4 his signed statement in proof of loss within thirty days after the insured's notification  
5 of loss as prescribed in this Subparagraph. The insurer shall send acknowledgment  
6 of its receipt to the insured either by United States mail, private commercial carrier,  
7 electronic delivery, or hand delivery.

8 (d) An insurer may make additional requests for information or inspection  
9 if during the investigation of the claim the additional requests are necessary. A  
10 request for information already furnished in its entirety by the insured shall have no  
11 effect on the insurer's deadlines for initiating the loss adjustment of a property  
12 damage claim as set forth in this Paragraph.

13 (e) For matters remaining in dispute once an insurer has received all items,  
14 statements, and forms requested by the insurer, or has completed requested  
15 inspections or reinspections, an insurer shall accept or reject a claim within fifteen  
16 days of receiving all items, statements, or forms, or within fifteen days from the  
17 inspection or reinspection requested by the insurer to determine satisfactory proof  
18 of loss. The acceptance or denial of a claim may be in whole or in part.

19 (f) For matters remaining in dispute once an insurer has received all items,  
20 statements, and forms requested by the insurer, or completed requested inspections  
21 or reinspections, if an insurer is unable to accept or reject a claim within fifteen days  
22 after receiving the items, statements, and forms requested by an insurer, or after  
23 completing a requested inspection or reinspection, the insurer, within that same time  
24 period, shall notify the insured of the reasons that the insurer needs additional time  
25 to assess the claim. The insurer shall thereafter accept or reject the claim in whole  
26 or in part no later than thirty days from the date on which the insurer notified the  
27 insured of the reasons that the insurer needed additional time to assess the claim.

1           (g) In the case of catastrophic loss, the claims handling deadlines imposed  
2           in Subparagraphs (e) and (f) of this Paragraph shall be extended for an additional  
3           fifteen days.

4           (h) Nothing in this Paragraph shall be construed to relieve an insurer of its  
5           obligation to transmit payment of the undisputed amount of any claim due to any  
6           insured within thirty days after receipt of satisfactory proof of loss as set forth in  
7           Paragraph (1) of this Subsection.

8           (i) Nothing in this Paragraph shall be construed to prohibit an insured from  
9           making a supplemental claim, nor to relieve an insurer from the obligation to  
10          conduct a supplemental investigation or make a supplemental payment, if warranted  
11          by the facts of a supplemental claim. A supplemental claim adds new found damage  
12          or additional costs to the original claim. The fact that an insurer makes a  
13          supplemental payment shall not be construed as evidence of a violation of this  
14          Section or R.S. 22:1973.

15          (4) An insurer shall issue a copy of the insurer's field adjuster report, relative  
16          to the insured's property damage claim, to the insured within fifteen days of  
17          receiving a request for such from the insured.

18          (5) If an insurer issues a check, draft, or other negotiable instrument that is  
19          jointly payable to an insured and a mortgagee or mortgage servicer as payment of  
20          insurance settlement proceeds for multiple types of coverage, the insurer shall  
21          provide with the check, draft, or other negotiable instrument a statement indicating  
22          the dollar amount of insurance settlement proceeds paid under each type of coverage  
23          including but not limited to dwelling, personal property, and additional living  
24          expenses. In lieu of issuing a statement pursuant to this Paragraph, an insurer may  
25          issue separate checks, drafts, or other negotiable instruments for payment of each  
26          type of coverage.

27          B.(1)(a) Except as provided in Subparagraphs (A)(3)(b) and (c) of this  
28          Section and Subparagraph (b) of this Paragraph, failure to comply with Paragraphs  
29          (A)(1) through (3) of this Section, when such failure is found to be arbitrary,



1        capricious, or without reasonable cause, shall subject the insurer to a penalty, in  
2        addition to the amount of the loss, of fifty percent damages on the amount found to  
3        be due from the insurer to the insured, or one thousand dollars, whichever is greater,  
4        payable to the insured, or in the event a partial payment or tender has been made,  
5        fifty percent of the difference between the amount paid or tendered and the amount  
6        found to be due as well as reasonable attorney fees and costs. Such penalties, if  
7        awarded, shall not be used by the insurer in computing either past or prospective loss  
8        experience for the purpose of setting rates or making rate filings.

9                (b) Except as provided in Subparagraph (A)(3)(c) of this Section, in the case  
10        of catastrophic loss, failure to comply with Paragraphs (A)(1) through (3) of this  
11        Section, when such failure is found to be arbitrary, capricious, or without reasonable  
12        cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of  
13        fifty percent damages on the amount found to be due from the insurer to the insured,  
14        or two thousand five hundred dollars, whichever is greater, payable to the insured,  
15        or in the event a partial payment or tender has been made, fifty percent of the  
16        difference between the amount paid or tendered and the amount found to be due as  
17        well as reasonable attorney fees and costs or two thousand five hundred dollars,  
18        whichever is greater. The penalties, if awarded, shall not be used by the insurer in  
19        computing either past or prospective loss experience for the purpose of setting rates  
20        or making rate filings.

21                (c) Claims for penalties and attorney fees pursuant to this Paragraph are  
22        subject to a liberative prescription of two years.

23                (2) The period prescribed in Subsection (C) of this Section for payment of  
24        losses resulting from fire and the penalty provisions for nonpayment within the  
25        period do not apply where the loss from fire was arson-related and the state fire  
26        marshal or other state or local investigative bodies have the loss under active arson  
27        investigation. The provisions relative to the time of payment and penalties shall  
28        commence to run upon certification of the investigating authority that there is no

1 evidence of arson or that there is insufficient evidence to warrant further  
2 proceedings.

3 (3) The provisions relative to suspension of payment due to arson do not  
4 apply to a bona fide lender which holds a valid recorded mortgage on the property  
5 in question.

6 (4)(a) For the purposes of this Paragraph, the following terms have the  
7 meanings ascribed to them:

8 (i) "Damaged property" means a dwelling, structure, personal property, or  
9 any other property, except a vehicle, that requires repairs, replacement, restoration,  
10 or remediation to reestablish its former condition.

11 (ii) "Depreciation" means depreciation including but not limited to the costs  
12 of goods, materials, labor, and services necessary to replace, repair, or rebuild  
13 damaged property.

14 (b) An insurance policy covering damaged property may allow for  
15 depreciation.

16 (c) In an insurance policy covering damaged property, the insured shall  
17 provide, on a form approved by the commissioner, notice to the insured that  
18 depreciation may be deducted or withheld from a claim payment.

19 (d) If depreciation is applied to a loss for damaged property, the insurer shall  
20 provide a written explanation to the insured as to how the depreciation was  
21 calculated.

22 (e) Depreciation shall be reasonable and based on a combination of objective  
23 criteria and subjective assessment, including the actual condition of the property  
24 prior to loss.

25 C.(1) All claims for losses resulting from fire brought by insureds against an  
26 insurer shall be paid by check or draft of the insurer or, if offered by the insurer and  
27 the insured requests, electronic transfer of funds to the order of the insured to whom  
28 payment of the claim is due pursuant to the policy provisions, or his attorney, or  
29 upon direction of the insured to one specified.

1           (2) An insurer shall not intentionally or unreasonably delay, for more than  
2           three calendar days, exclusive of Saturdays, Sundays, and legal holidays, after  
3           presentation for collection, the processing of any properly executed and endorsed  
4           check or draft issued in settlement of an insurance claim.

5           (3) Any insurer violating this Subsection shall pay the insured or claimant  
6           a penalty of two hundred dollars or fifteen percent of the face amount of the check  
7           or draft, whichever is greater.

8           D.(1) An insurer shall not require that repairs, replacement, restoration, or  
9           remediation be made to an insured's property by a particular preferred vendor or  
10           recommended contractor.

11           (2) An insurer shall not recommend the use of a particular preferred vendor  
12           or recommended contractor without informing the insured or claimant that the  
13           insured or claimant is under no obligation to use the preferred vendor or  
14           recommended contractor to complete repairs, replacement, restoration, or  
15           remediation of the insured's property.

16           E.(1) An insurer shall include a general contractor's overhead and profit in  
17           payments for losses when the services of a general contractor are reasonably  
18           foreseeable. This requirement applies to policies that provide for the adjustment and  
19           settlement of losses on a replacement cost basis and to policies that provide for the  
20           adjustment and settlement of losses on an actual cash value basis.

21           (2) The deduction of prospective contractor overhead, prospective contractor  
22           profit, and sales tax in determining the actual cash value of an adjustment or  
23           settlement is not allowed on replacement cost policies or on actual cash value  
24           policies.

25           F.(1) Residential property insurance policies shall contain the following  
26           provision, with permission to substitute the words "this Company" with a more  
27           accurate descriptive term for the insurer:

28           "Appraisal. If you and this Company fail to agree as to the amount of loss,  
29           either party may demand that the amount of the loss be set by appraisal. If either

1        party makes a written demand for appraisal, each party shall select a competent,  
2        impartial, and disinterested appraiser and notify the other party of his appraiser's  
3        identity within twenty days of receipt of the written demand for appraisal. The  
4        appraisers shall select a competent, impartial, and disinterested umpire. If, after  
5        fifteen days, the appraisers have not agreed upon who will serve as umpire, the  
6        umpire shall be appointed by a judge of the court of record in which the property is  
7        located. The appraisers shall appraise the loss. If the appraisers submit written  
8        notice of an agreement as to the amount of the loss to this Company, the amount  
9        agreed upon shall set the amount of the loss. If the appraisers fail to agree within  
10       thirty days, the appraisers shall submit their differences along with any supporting  
11       documentation to the umpire, who shall appraise the loss. The appraisers may  
12       extend the time to sixty days for which they shall agree upon the amount of loss or  
13       submit their differences and supporting documents to the umpire, if the extension is  
14       agreed to by the appraisers from both parties. A written agreement signed by the  
15       umpire and either party's appraiser shall set the amount of the loss, pursuant to the  
16       appraisal process, but shall not preclude either party from exercising its rights under  
17       the policy or the law. Each appraiser shall be paid by the party selecting that  
18       appraiser. Other expenses of the appraisal and the expenses of the umpire shall be  
19       divided and paid in equal shares by you and this Company. If there is an appraisal  
20       award, all applicable policy terms, limits, deductibles, and conditions shall apply.  
21       If you file a lawsuit relative to this policy against this Company, the lawsuit will be  
22       held in abatement during the period between a timely demand for appraisal and the  
23       deadline for execution of an appraisal award, pursuant to this clause."

24                (2) Appraisal shall be limited to the scope of and cost to repair or replace  
25        covered damage as determined by the insurer. Appraisal shall not address any  
26        coverage disputes.

27                (3) At least ten days before demanding appraisal, the party seeking appraisal  
28        shall provide the other party with written documentation of the dispute as to the  
29        amount of the loss, identifying the items of the dispute.

1           (4) Appraisers shall create written line-item estimates itemized by applicable  
2           coverages, causes of loss, scope, sub limits, policy provisions, and actual cash value  
3           or replacement cost value where applicable. Appraisers shall provide the itemized  
4           estimates to the insured and insurer within fifteen days of completion.

5           (5) An appraisal award shall include an attached written line-item estimate  
6           itemized by applicable coverages, causes of loss, scope, sub limits, policy provisions,  
7           and actual cash value or replacement cost value where applicable.

8           (6) An insurer's tender of undisputed additional amounts to the insured  
9           within thirty days of the insurer's receipt of a valid appraisal award does not  
10          constitute evidence of bad faith on the part of the insurer.

11          (7) If either party to an appraisal feels engagement of a specialist is required  
12          to assist the appraisers, either party may engage such specialist at its own costs and  
13          the findings of such specialist shall be considered by the appraisers or umpire before  
14          arriving at an appraisal award.

15          (8) If either party to an appraisal feels engagement of a specialist is required  
16          to assist the appraisers, either party may engage such specialist at its own cost and  
17          the findings of such specialist shall be considered by the appraisers or umpire before  
18          arriving at an appraisal award.

19   \*           \*           \*

20 §1973. Good faith duty; claims settlement practices; cause of action; penalties

21   \*           \*           \*

22           B. Any one of the following acts, if knowingly committed or performed by  
23           an insurer, constitutes a breach of the insurer's duties imposed in Subsection A of this  
24           Section:

25   \*           \*           \*

26           (5) Failing to pay the undisputed amount of any claim due to any person  
27           insured by the contract within sixty days after receipt of satisfactory proof of loss  
28           from the claimant when such failure is arbitrary, capricious, or without ~~probable~~  
29           reasonable cause.

1 (6) Failing to pay claims pursuant to R.S. 22:1893 when such failure is  
2 arbitrary, capricious, or without ~~probable~~ reasonable cause.

3 \* \* \*

4 Section 2. R.S. 22:1892(A)(5) and (6), (B)(6), and (E) through (G) are hereby  
5 repealed in their entirety.

6 Section 3. The Legislature of Louisiana hereby changes the language of "probable  
7 cause" to "reasonable cause" in R.S. 22:1892 and 1973 for the sole purpose of avoiding  
8 confusion with the definition of "probable cause" found in Title 14 of the Louisiana Revised  
9 Statutes of 1950, the Code of Criminal Procedure, and the Code of Evidence.

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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)]

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HB 601 Engrossed

2023 Regular Session

Huval

**Abstract:** Provides for bad faith claims against insurers.

Present law provides for definitions.

Proposed law adds the following definitions:

- (1) Arbitrary, capricious, or without reasonable cause.
- (2) Catastrophic loss.
- (3) Disinterested.
- (4) Undisputed amount.
- (5) Damaged property.
- (6) Depreciation.

Present law provides that all insurers issuing any type of contract, other than those specified in present law, shall pay the amount of any claim due to an insured within 30 days after receipt of satisfactory proofs of loss from the insured or any party in interest.

Proposed law retains present law and makes technical changes.

Present law provides that an insurer shall notify the insurance producer of record of payments for property damage claims in certain circumstances.

Proposed law repeals present law.

Present law provides all insurers issuing any type of contract, other than those specified in present law, shall pay the amount of an third party property damage claim and of any

reasonable medical expenses claim due to a bona fide third party claimant within 30 days after written agreement of settlement of the claim from any third party claimant.

Proposed law retains present law and makes technical changes.

Present law provides that, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and of a claim for reasonable medical expenses within 14 days after notification of loss by the claimant.

Proposed law changes 14 days to 15 days.

Present law provides that in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within 30 days after notification of loss by the claimant.

Present law provides that the commissioner may promulgate a rule for extending the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster up to an additional 30 days.

Proposed law retains present law.

Present law provides that after a catastrophic loss, only one additional extension of the period of time for initiating a loss adjustment may be allowed and must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.

Proposed law retains present law.

Present law provides that insurers shall make a written offer to settle any property damage claim, including a third-party claim, within 30 days after receipt of satisfactory proofs of loss of that claim.

Proposed law retains present law and makes technical changes.

Proposed law provides that claims for penalties and attorney fees pursuant to this provision of law are subject to a liberative prescriptive period of two years.

Proposed law provides that insurers adjusting an insurance policy that covers immovable property, including manufacture red and modular homes as defined in present law, shall transmit payment of the undisputed amount of any claim due to an insured within 30 days after receipt of satisfactory proof of loss from the insured or any party in interest.

Proposed law provides that the insurer shall notify the insurance producer of record of all such payments for property damage claims made in accordance with proposed law.

Present law provides that the failure to make such payment within 30 days after receipt of such satisfactory written proofs and demand therefor or failure to make a written offer to settle any property damage claim, including a third-party claim, within 30 days after receipt of satisfactory proofs of loss of that claim, as provided in proposed law.

Proposed law retains present law.

Present law provides that when a insurer is found to be violation of present law and the violation is found to be arbitrary, capricious, or without reasonable cause the insurer he shall be subject to penalties.

Proposed law changes reasonable cause to probable cause.

Proposed law provides that for purposes of a claim brought due to a breach of present law relating to payment and adjustment of a first-party claim arising under an insurance policy for immovable property, including manufactured and modular homes as defined in present law, "satisfactory proof of loss" means the insurer has received written proof that is sufficient to establish the extent of covered damages and the amount due on an insurance claim.

Proposed law provides that, an insurer may require completion of a signed statement in proof of loss as a condition of receipt of a satisfactory proof of loss in support of a claim for immovable property coverage.

Proposed law provides that in the case of catastrophic loss, the insurer shall acknowledge receipt of a claim, initiate loss adjustment of a property damage claim expenses, and request from the insured any items, statements, and forms that the insurer reasonably believes, at that time, will be required from the insured within 15 days after notification of loss by the insured. Proposed law further provides that the acknowledgment of the receipt shall be sent either by U.S. mail, private commercial carrier, electronic delivery, or hand delivery.

Proposed law provides that the failure to initiate loss adjustment of a property damage claim within 15 days after notification of loss by the insured in accordance with proposed law shall subject the insurer to the penalties provided in present law.

Proposed law provides that in the case of catastrophic loss, the insurer shall acknowledge receipt of a claim, initiate loss adjustment of the property damage claim, and request from the insured any items, statements, and forms that the insurer reasonably believes, at that time, will be required from the insured within 30 days after notification of loss by the insured.

Proposed law provides that the commissioner may promulgate and adopt a rule in accordance with the Administrative Procedure Act to extend the time period up to an additional 30 days for an insurer to initiate a loss adjustment claim for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster.

Proposed law provides that thereafter, only one additional extension of the period of time for initiating a loss adjustment may be allowed and must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.

Proposed law provides that the insurer shall provide the insured with a form upon which the insured shall submit his signed statement in proof of loss within 30 days after the insured's notification of loss.

Proposed law provides that the insurer shall send acknowledgment of its receipt to the insured either by United States mail, private commercial carrier, electronic delivery, or hand delivery.

Proposed law provides that an insurer may make additional requests for information or inspection if during the investigation of the claim the additional requests are found to be necessary.

Proposed law provides that for matters remaining in dispute once an insurer has received all items, statements, and forms requested by the insurer, or has completed requested inspections or reinspections, an insurer shall accept or reject a claim within 15 days of receiving all items, statements, forms, inspection or reinspection requested by the insurer to determine satisfactory proof of loss.

Proposed law provides that for matters remaining in dispute once an insurer has received all items, statements, and forms requested by the insurer, or completed requested inspections



or reinspections, if an insurer is unable to accept or reject a claim within 15 days after receiving the items, statements, and forms requested by an insurer, or completing a requested inspection or reinspection, the insurer, within that same time period, shall notify the insured of the reasons that the insurer needs additional time to assess the claim.

Proposed law provides that an insurer shall issue a copy of the insurer's field adjuster report, relative to the insured's property damage claim, to the insured within 15 days of receiving a request for such from the insured.

Proposed law provides that if an insurer issues a check, draft, or other negotiable instrument that is jointly payable to an insured and a mortgagee or mortgage servicer as payment of insurance settlement proceeds for multiple types of coverage, the insurer shall provide with the check, draft, or other negotiable instrument a statement indicating the dollar amount of insurance settlement proceeds paid under each type of coverage including but not limited to dwelling, personal property, and additional living expenses.

Proposed law provides that in lieu of issuing a statement, an insurer may issue separate checks, drafts, or other negotiable instruments for payment of each type of coverage.

Proposed law provides for penalties.

Proposed law provides that all claims brought by insureds against an insurer shall be paid by check or draft of the insurer or, if offered by the insurer and the insured requests, electronic transfer of funds to the order of the insured to whom payment of the claim is due pursuant to the policy provisions, or his attorney, or upon direction of the insured to one specified.

Proposed law provides that no insurer shall intentionally or unreasonably delay, for more than three calendar days, exclusive of Saturdays, Sundays, and legal holidays, the processing of any properly executed and endorsed check or draft issued in settlement of an insurance claim.

Proposed law provides that an insurer shall not require that repairs, replacement, restoration, or remediation be made to an insured's property by a particular preferred vendor or recommended contractor.

Proposed law provides that an insurer shall not recommend the use of a particular preferred vendor or recommended contractor without informing the insured or claimant that the insured or claimant is under no obligation to use the preferred vendor or recommended contractor to complete repairs, replacement, restoration, or remediation of the insured's property.

Proposed law provides that an insurer is required to include general contractor's overhead and profit in payments for losses when the services of a general contractor are reasonably foreseeable.

Proposed law provides that residential property insurance policies shall contain a provision that outlines a process whereby the amount of a loss may be set through appraisal, if an insurer and insured do not agree on the amount of the loss and the insurer or insured makes a demand for such.

Proposed law provides for the implementation, initiation, and guidelines of the appraisal process.

Present law sets forth the acts that constitute a breach of the insurer's duties.

Proposed law retains present law and reformulates the standard necessary to constitute a breach.

Proposed law clarifies the applicable standard and makes technical changes.

Present law provides for the penalties and damages imposed upon an insurer that does not pay an insured within a specified time period.

(Amends R.S. 22: 1892(A)(1)-(4), (B)(1)-(4), and 1973(B)(5) and (6); Adds R.S. 22:46(29)-(32) and 1892.2; Repeals R.S. 22:1892(A)(5) and (6), (B)(6), and (E)-(G))

Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Change the definition of "disinterested" to mean that a party does not have, nor has he ever had, a pecuniary or monetary interest in the claim, a familial relationship with either party, or an employee or employer relationship with either party.
3. Change "probable cause" to "reasonable cause."
4. Provide that immovable property shall include manufactured and modular homes.
5. Require that an insured provide a signed statement of proof of loss and delete the requirement that an insured give the insurer a sworn statement of proof of loss.
6. Provide that the commissioner of insurance may promulgate and adopt a rule in accordance with the Administrative Product Act to extend the time period up to an additional 30 days for an insurer to initiate a loss adjustment in certain circumstances.
7. Implement a 30-day-time period for an insurer to provide the insured with his proof of loss.