

GREEN SHEET REDIGEST

HB 601

2023 Regular Session

Huval

INSURANCE: Provides relative to bad faith claims against insurers.

DIGEST

Present law provides for definitions.

Proposed law retains present law and defines "amount of any claim due", "arbitrary, capricious, or without probable cause", "catastrophic loss", and "disinterested".

Present law requires all insurers issuing any type of contract, other than those specified in present law, to pay the 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 retains present law but defines "amount of any claim due".

Present law requires all insurers issuing any type of contract, other than those specified in present law, to pay the amount of a third-party property damage claim and any reasonable medical expenses due to a bonafide third-party claimant within 30 days after written agreement of settlement of the claim from any third-party claimant.

Present law requires an insurer, except in the case of a catastrophic loss, to 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 requires an insurer, in the case of catastrophic loss, to initiate loss adjustment of a property damage claim within 30 days after notification of loss by the claimant.

Present law authorizes the commissioner to promulgate and adopt a rule in accordance with the APA 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 but further authorizes an additional period of time with respect to catastrophic losses if necessitated by civil authority orders that have prohibited certain access to the insured property.

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

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

Proposed law requires insurers adjusting an insurance policy that covers immovable property, including manufactured and modular homes as defined in present law, to transmit payment of the 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.

Present law provides that an insurer's failure to make such payment within 30 days after receipt of satisfactory proof of loss and demand therefor or failure to make a written offer to settle any property damage claim, including a third-party claim, subjects the insurer to certain present law penalties.

Proposed law retains present law but 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 proof that is sufficient to establish the extent of covered damages and the amount due on an insurance claim.

Proposed law authorizes an insurer to require an insured's completion of a signed statement in proof of loss to support a claim for immovable property coverage as condition of satisfactory proof of loss.

Proposed law requires an insurer, in the case of catastrophic loss, to acknowledge receipt of a claim, initiate loss adjustment of 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 requires an insurer to acknowledge its receipt to the insured by U.S.P.S. mail, private commercial carrier, electronic delivery, or hand delivery.

Proposed law provides that an insurer's 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 subjects the insurer to the penalties provided in present law.

Proposed law requires an insurer, in the case of catastrophic loss, to 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 authorizes the commissioner to promulgate and adopt a rule in accordance with the APA 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 requires the insurer to provide the insured with a form upon which the insured is required to submit his signed statement in proof of loss within 30 days after the insured's notification of loss.

Proposed law requires the insurer to send acknowledgment of its receipt to the insured either by U.S.P.S. mail, private commercial carrier, electronic delivery, or hand delivery.

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

Proposed law requires an insurer to accept or reject a claim within 15 days of receiving all satisfactory proof of loss with respect to 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.

Proposed law provides that for matters remaining in dispute, 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, is required to notify the insured of the reasons the insurer needs additional time to assess the claim.

Proposed law requires an insurer to 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 is required to 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 requires claims brought by insureds against an insurer to 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 prohibits an insurer from intentionally or unreasonably delaying, 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 prohibits an insurer from requiring that repairs, replacement, restoration, or remediation be made to an insured's property by a particular preferred vendor or recommended contractor.

Proposed law prohibits an insurer from recommending 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 requires residential property insurance policies to 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, clarifies the standard, and makes technical changes.

(Amends R.S. 22: 1892(A)(1)-(4) and (B)(4); Adds R.S. 22:46(29)-(32), 1982(B)(1)(c), 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.

The House Floor Amendments to the engrossed bill:

1. Retain "probable cause" as provided for in present law.
2. Define "amount of any claim due".
3. Delete references to "undisputed" amounts.
4. Authorize an additional period of time for an insurer to initiate loss adjustments with respect to cases of catastrophic loss under certain circumstances.
5. Delete proposed law requirement for an insurer to notify the insurance producer of record regarding payments for property damage claims.
6. Prohibit an insurer from requiring from insureds certain information that extends beyond the requirements of proposed law.
7. Provide that an insurer is not absolved of responsibility to refrain from certain adverse handling of insureds' claims.
8. Authorize the court of record in which property is located to set and enforce deadlines and require certain compliance as provided in the appraisal clause set forth in residential property insurance policies.
9. Delete proposed law language that prohibits appraisals from addressing coverage disputes.
10. Authorize insureds to provide reports and photos as satisfactory proof of loss.
11. Provide that insurers' deadlines are not extended due to certain circumstances.
12. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill

1. Make technical changes

2. Add references to "undisputed" amounts of a covered claim.
3. Remove "as determined by the courts" from definition for "amount of any claim due".
4. Define "satisfactory proof of loss" to include "written proof".
5. Define "arbitrary, capricious, or without probable cause" to include "willful".
6. Authorize an insurer can require an insured complete a signed statement as a condition for proof of loss.
7. Provide an insurer is obligated to transmit a payment of the amount of any claim due within 30 days.
8. Authorize an insurer to issue payments for each type of coverage.
9. Remove "timely" from the amount paid.
10. Clarifies an exception in proposed law.