

RÉSUMÉ DIGEST

SB 111

2025 Regular Session

Seabaugh

Existing law provides that an insurer owes its insured a duty of good faith and fair dealing.

Existing law further provides for acts by an insurer that constitute a breach of the insurer's duty of good faith and fair dealing.

Proposed law would have prohibited a cause of action for breach of the insurer's duty of good faith and fair dealing when certain conditions were present.

Would have become effective August 1, 2025.

(Proposed to amend R.S. 22:1892(I)(2)(a) and (3); proposed to add R.S. 22:1892(I)(4))

VETO MESSAGE:

"Louisiana welcomes insurance companies and appreciates those that fulfill their obligations promptly, especially during times of hardship. However, it is well known that some insurers delay claim payments as long as possible. Our bad faith penalty statute is the main tool to discourage this conduct.

Senate Bill 111 would prevent insured individuals and third-party claimants from challenging an insurer's refusal to settle certain casualty claims unless four specific conditions are met. This change would make it easier for insurance companies to deny valid claims, introduce legal uncertainty, and leave policyholders with limited options for recourse. For these reasons, I cannot allow this bill to become law.

Historically, some large insurers have adopted strategies to delay and deny claims, minimize payouts, and aggressively defend against policyholders who contest low settlements. These tactics-such as stalling, prioritizing company profits over policyholders, and using aggressive legal defenses-have resulted in record profits for some insurers, often at the expense of those they insure. As Senator Josh Hawley recently described in a Congressional hearing, "our customers' worst day is your big profit opportunity." Such practices have become all too common, especially in the aftermath of natural disasters, as seen after events like the 1998 California earthquake, Hurricanes Helene and Katrina, and Superstorm Sandy.

This issue is not limited to property insurance. Senate Bill 111 would allow liability and casualty insurers in Louisiana to profit from the misfortunes of our citizens by limiting their ability to challenge insurers' refusals to settle personal injury claims unless four narrow requirements are met.

Louisiana Revised Statute 22: 1892(1) requires insurers to act in good faith and to handle claims fairly and promptly. The Louisiana Supreme Court has confirmed that this statute provides policyholders a cause of action if an insurer breaches these duties, as outlined in *Kelly v. State Farm Fire & Cas. Co.*, 2014-1921 (La. 5/5/15), 169 So.3d 328. If an insurer refuses to pay a valid claim after receiving sufficient evidence, current law allows for penalties to be imposed-serving both as protection for policyholders and as a deterrent against bad faith delays.

Recent legislation restructured and amended bad faith statutes, and it significantly reduced the maximum penalty in favor of insurers. See Act 3 of the 2024 Regular Session. Damages for breach changed from "any damages sustained as a result of the breach" to "proven economic damages sustained as a result of the breach." The maximum statutory penalty changed from the greater of "an amount not to exceed two times the damages sustained or five thousand dollars" to the greater of "fifty percent of the damages sustained or five thousand dollars." The penalty for failing to pay the amount of a claim - changed from "Failing to pay the amount of any claim due any person insured by the contract within sixty days after receipt of satisfactory proof of loss" to "Failure to pay the amount of any claim due to any person insured by the contract within the period provided by law following receipt. .." Act 3 also enacted a bad faith statute dealing with property - that new statute is R.S. 22: 1892.2.

Senate Bill 111 would shield insurers from having to defend their decisions to deny settlements, broaden the scope of R.S. 22:1982(1), and give insurers a broad defense that would severely limit policyholders' ability to hold them accountable. Some argue that the Kelly decision imposes strict liability on insurers who refuse to settle and later face judgments exceeding policy limits. However, there is no evidence of such strict liability. The law lists five specific acts that can constitute bad faith, and courts already evaluate these situations individually.

Additionally, including the "claimant in a claim for personal injury" as eligible to bring a cause of action would expand who can sue insurers, which conflicts with the intent of R.S. 22: 1892(1). Recent legislation has already limited third-party claims against insurers, and existing law does not allow third parties to sue for bad faith under this statute, except in cases where the insured assigns their rights.

A major concern with Senate Bill 111 is its requirement that insurers be given "the opportunity to conduct adequate discovery" before their refusal to settle can be challenged. This phrase is undefined and could be exploited to indefinitely delay claims, simply by asserting that discovery is incomplete. The bill does not clarify what "discovery" means or when it must occur, which could lead to confusion and abuse.

Testimony during committee hearings suggested that bad faith claims generally become relevant only after a trial and judgment, by which point insurers have received ample opportunity to investigate. Allowing insurers to claim they have not had enough discovery at any stage of litigation would create procedural complications and could result in repeated delays and dismissals, increasing costs and burdens for claimants and the courts.

In summary, good insurance companies should have no problem with this veto, they take care of business and pay their claims timely. Senate Bill 111 will not reduce litigation or streamline claims processing. Instead, it would make it harder for policyholders to challenge insurers who act in bad faith. This is not in the best interest of Louisiana's citizens. The bill would allow insurers to deny claims, refuse reasonable settlements, and avoid accountability, undermining the protections policyholders currently have under our law.

For these reasons, I vetoed Senate Bill 111 and returned it to the Legislature. I remain committed to working with lawmakers on balanced reforms that protect both insurers and the citizens they serve, while discouraging frivolous lawsuits. If the legislature would like to make reasonable changes to the bad faith statute next year, I will gladly work with them over the next year to make those changes."