

SENATE BILL NO. 620

BY SENATOR AMEDEE

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AN ACT

To amend and reenact R.S. 32:880, relative to proof of financial responsibility for nonresident drivers involved in accidents; to provide for self-insurance or self-insurance plans as proof of financial security; to provide for payment of claims by nonresident self-insurers and self-insurance plans; to provide for processing claims involving certain self-insurers and self-insurance plans; to provide penalties for actions by nonresident self-insurers and self-insurance plans deemed arbitrary, capricious, and without probable cause; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:880 is hereby amended and reenacted to read as follows:

§880. Nonresident drivers; accidents

A. Whenever a nonresident driver is involved in an accident in this state and is issued a traffic citation in connection with that accident, the nonresident driver shall **comply with one of the following items:**

(1) Show proof of liability insurance coverage as required by law;

(2) **Show proof of coverage as a self-insurer or under a self-insurance plan from the state in which he is a resident.**

(3) Post a bond in an amount sufficient to cover the damage caused in the accident; or,

~~(4)~~ (4) Deposit his driver's license with the law enforcement agency ~~which~~ **that** investigates the accident.

B. As used in this Section, the phrase "nonresident driver" means a person who operates a motor vehicle in this state and who has a foreign driver's license, or a foreign registration for the motor vehicle, or both.

C.(1) No proof of coverage as a self-insurer or under a self-insurance

1 plan from the state in which the nonresident driver is a resident shall be valid
2 or in compliance with the provisions of this Section unless the self-insurer or
3 plan agrees to be subject to the following provisions regarding settlement of a
4 claim for damages:

5 (a) The self-insurer or plan shall pay the amount of any claim due a
6 claimant within thirty days after receipt of satisfactory proof of loss from the
7 claimant or any party in interest.

8 (b) The self-insurer or plan shall pay the amount of any third-party
9 property damage claim and any reasonable medical expense claim due any bona
10 fade third-party claimant within thirty days after written agreement of
11 settlement of the claim from the third-party claimant.

12 (2) Failure to make a payment within thirty days after receipt of
13 satisfactory proof of loss as provided in Subparagraph (1)(a) of this Subsection
14 or within thirty days after written agreement of settlement as provided in
15 Subparagraph (1)(b) of this Subsection when the failure is found to be
16 arbitrary, capricious, or without probable cause, shall subject the self-insurer
17 or self-insurance plan to a penalty, in addition to the amount of the loss or
18 settlement agreement, of fifty percent damages on the amount due or one
19 thousand dollars, whichever is greater, payable to the respective claimant or,
20 if a partial payment or tender has been made, fifty percent damages on the
21 difference between the amount paid or tendered and the amount found to be
22 due, as well as reasonable attorney fees and costs.

23 (3)(a) The self-insurer or self-insurance plan owes a duty of good faith
24 and fair dealing to the injured claimant and has an affirmative duty to adjust
25 any claim fairly and promptly and to make a reasonable effort to settle any
26 claim with a claimant.

27 (b) Any self-insurer or self-insurance plan that breaches these duties
28 shall be liable for any damages sustained as a result of the breach.

29 (c) Any one of the following acts, if knowingly committed or performed
30 by a self-insurer or self-insurance plan, constitutes a breach of the insurer's

1 duties imposed in Subparagraph (a) of this Paragraph:

2 (i) Misrepresenting pertinent facts or insurance policy provisions
3 relating to any coverages at issue.

4 (ii) Failing to pay a settlement within thirty days after an agreement is
5 reduced to writing.

6 (iii) Denying coverage or attempting to settle a claim on the basis of an
7 application that the self-insurer or self-insurance plan knows was altered
8 without notice to, or knowledge or consent of, the claimant.

9 (iv) Misleading a claimant as to the applicable prescriptive period.

10 (v) Failing to pay the amount of any claim due a claimant within sixty
11 days after receipt of satisfactory proof of loss from the claimant when the
12 failure is arbitrary, capricious, or without probable cause.

13 (4) In addition to any general or special damages to which a claimant is
14 entitled for breach of the imposed duty pursuant to Subparagraph (3)(a) of this
15 Subsection, the claimant may be awarded penalties assessed against the self-
16 insurer or self-insurance plan in an amount not to exceed two times the damages
17 sustained or five thousand dollars, whichever is greater.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____