

2017 Regular Session

HOUSE BILL NO. 287

BY REPRESENTATIVE TALBOT

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

INSURANCE: Provides for the return of unearned premium and notice of claim payments to the mortgagee

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AN ACT

To amend and reenact R.S. 22:41(11), 885(B), 887(A)(5) and (D), 1271(A), 1484(A)(1), and 1892(A)(1), relative to property and casualty insurance claims; to provide for the return of unearned premium to the mortgagee; to provide for notice of claim payments to the mortgagee; to provide for notice to the mortgagee of cancellation of the policy by an insurer; to provide for identification of the insured property in the notice to insured and the mortgagee; to provide notice to the mortgagee of additional required premium; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:41(11), 885(B), 887(A)(5) and (D), 1271(A), 1484(A)(1), and 1892(A)(1) are hereby amended and reenacted to read as follows:

§41. Policyholder bill of rights

* * *

(11) Policyholders shall have the right to cancel their policy and receive a refund of any unearned premium. If a policy was funded by a premium finance company, the unearned premium will be returned to the premium finance company to pay toward the policyholder's financing loan. If a policy was funded by a mortgagee with the mortgagee's own funds, the unearned premium will be returned to the mortgagee and the policyholder.

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1 §885. Cancellation by the insured; surrender

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3 B. Within thirty days following such cancellation the insurer shall pay to the
4 insured or to the person entitled thereto as shown by the insurer's records in
5 accordance with R.S. 22:41(11), any unearned portion of any premium paid on the
6 policy as computed on the customary pro rata rate, unless otherwise stated in a policy
7 that has been filed with and approved by the commissioner, and any unearned
8 commission. If no premium has been paid on the policy, the insured shall be liable
9 to the insurer for premium for the period during which the policy was in force.
10 Except for surplus line insurers, any assessment of a monetary penalty by an insurer
11 against an insured as a result of the insured's cancellation prior to the expiration of
12 any policy is prohibited. Nothing in this Section shall prohibit an insurer from
13 calculating unearned premium based on a short-rate provision contained in any
14 insurance policy that has been filed with and approved by the commissioner.

15 * * *

16 §887. Cancellation by insurer; changes to homeowner's insurance policies

17 A. Cancellation by the insurer of any policy which by its terms may be
18 cancelled at the option of the insurer, or of any binder based on such policy, may be
19 effected as to any interest only upon compliance with either of the following:

20 * * *

21 (5) Any policy may be cancelled by the company at any time during the
22 policy period for failure to pay any premium when due whether such premium is
23 payable directly to the company or its agent or indirectly under a premium finance
24 plan or extension of credit, by mailing or delivering to the insured or mortgagee
25 written notice stating when, not less than ten days thereafter, such cancellation shall
26 be effective. Nothing in this Code shall mandate a separate notice of lapse for
27 nonpayment of premium of a policy defined as provided by R.S. 22:1460(G).

28 * * *

Proposed law retains present law and additionally requires the insurer to return any unearned premium to a mortgagee who funded the policy with his own funds.

Present law requires an insurer to notify the producer of record of all payments made to the insured for property damage claims.

Proposed law retains present law and additionally requires the insurer to notify a mortgagee named on the policy of payments for property damage claims.

Present law requires payment of any unearned premium to the insured within 30 days of cancellation of the policy by the insured or insurer. Proposed law retains present law and additionally requires notice of the return of unearned premium to the mortgagee.

Present law requires a notice requiring payment of a premium on a policy sent to the insured contain a description of the property being insured. Proposed law retains present law and additionally requires that this notice be sent to the mortgagee.

Present law requires the insurer to send the insured a notice of billing of a premium increase during the term of the policy. Proposed law retains present law and additionally requires this notice be sent to the mortgagee.

(Amends R.S. 22:41(11), 885(B), 887(A)(5) and (D), 1271(A), 1484(A)(1), and 1892(A)(1))

Summary of Amendments Adopted by House

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

1. Clarify that unearned premium will be returned to a mortgagee who funded a policy with the mortgagee's own funds, as well as the policyholder.
2. Require notice of return of unearned premium to the mortgagee as well as the policyholder upon cancellation of the policy by the insured or the insurer.
3. Require the notice requiring payment of premium on a policy sent to the mortgagee contain a description of the policy.
4. Require the insurer to send the mortgagee a notice of billing of a premium increase during the term of the policy.