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

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

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(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. <u>If a mortgagee provided specific notice to the insurer that the premium is being funded with the mortgagee's own funds, the unearned premium will be returned to the mortgagee and the policyholder.</u>

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§885. Cancellation by the insured; surrender

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

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

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

* * *

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

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D.(1) The portion of any premium paid to the insurer on account of the policy, including unearned commission, unearned because of the cancellation and in amount as computed on the pro rata basis, ~~must~~ shall be actually paid to the insured, the mortgagee, the agent of the insured, or other person entitled thereto as shown by the policy or by any endorsement thereon in accordance with R.S. 22:41(11), or be mailed to the insured or such person as soon as practicable following such cancellation. Any such payment may be made by cash, check, bank draft, or money order.

(2) When payment is sent to the agent or mortgagee of the insured, the insurer shall be required to provide notice to the insured, at the time of cancellation, that a return of unearned premium may be generated by the cancellation.

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§1271. Identification of property upon which premium is due

A. Any bill or other notice requiring payment of a premium for a policy of property or casualty insurance which is sent by an insurer to its policyholder or mortgagee shall identify the insured property sufficiently to allow the policyholder or mortgagee to identify the property upon which the premium is due. Such identification may be by description or may be by address if the property is real estate.

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§1484. Property, casualty, and liability insurance; premium increase by insurer without or with material change in circumstances of insured; notice of premium increase

A.(1) No insurer shall be entitled to an additional premium for a commercial property, casualty, or liability insurance policy which has been in effect for more than ninety days or for a noncommercial property, casualty, or liability insurance policy which has been in effect for more than sixty days when there has been no material change in the circumstances of the insured from those stated by the insured in his application for the policy. For an insurance company to be entitled to any

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additional premium, the insured and mortgagee ~~must~~ shall receive a billing notice and either an explanation of any premium increase or a statement that asks the insured to contact either the insurance company or its producer if the insured has any questions about the billing notice or the premium increase, within the first sixty days of the effective date of the policy. If the company or agent fails to bill the insured within the first sixty days of the effective date of the policy, the insured shall not be responsible for payment of such additional premium, shall not be penalized for nonpayment of that additional premium, and his policy shall not be cancelled for failure to pay such additional premium.

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§1892. Payment and adjustment of claims, policies other than life and health and accident; personal vehicle damage claims; extension of time to respond to claims during emergency or disaster; penalties; arson-related claims suspension

A.(1) All insurers issuing any type of contract, other than those specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, shall pay the amount of any claim due any insured within thirty days after receipt of satisfactory proofs of loss from the insured or any party in interest. The insurer shall notify the insurance producer of record and mortgagee named on the policy of all such payments for property damage claims made in accordance with this Paragraph.

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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)]

HB 287 Reengrossed 2017 Regular Session Talbot

Abstract: Requires the return of unearned premium to the mortgagee named on a policy.

Present law requires unearned premium to be returned by the insurer upon cancellation of an insurance policy to the policyholder or a premium finance company who financed the policy.

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.

The House Floor Amendments to the engrossed bill:

1. Clarify that the mortgagee must provide specific notice to the insurer that the premium is being funded with the mortgagee's own funds for the unearned premium to be returned to both the mortgagee and the policyholder.