

2021 Regular Session

HOUSE BILL NO. 585

BY REPRESENTATIVE GEYMANN

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

INSURANCE/HOMEOWNERS: Provides relative to homeowner's insurance claims settlement practices

1 AN ACT

2 To amend and reenact R.S. 22:1892(B)(1) and to enact R.S. 22:1892(A)(5), relative to
3 homeowner's insurance claims settlement practices; to provide for certain claims
4 settlement practices; to provide for penalties for insurers failing to provide timely
5 payment or settlement offers for claims; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1892(B)(1) is hereby amended and reenacted and R.S.
8 22:1892(A)(5) is hereby enacted to read as follows:

9 §1892. Payment and adjustment of claims, policies other than life and health and
10 accident; personal vehicle damage claims; extension of time to respond to
11 claims during emergency or disaster; penalties; arson-related claims
12 suspension

13 A.

14 * * *

15 (5) An insurer shall issue a copy of the insurer's field adjuster report, relative
16 to the insured's property damage claim, to the insured within fifteen days of
17 receiving a request for such from the insured.

18 B.(1) Failure to make such payment within thirty days after receipt of such
19 satisfactory written proofs and demand therefor or failure to make a written offer to
20 settle any property damage claim, including a third-party claim, within thirty days

1 after receipt of satisfactory proofs of loss of that claim, as provided in Paragraphs
 2 (A)(1) and (4) of this Section, respectively, or failure to make such payment within
 3 thirty days after written agreement or settlement as provided in Paragraph (A)(2) of
 4 this Section when such failure is found to be arbitrary, capricious, or without
 5 probable cause, shall subject the insurer to a penalty, in addition to the amount of the
 6 loss, of fifty percent damages on the amount found to be due from the insurer to the
 7 insured, or ~~one thousand~~ ten thousand dollars, whichever is greater, payable to the
 8 insured, ~~or to any of said employees~~, or in the event a partial payment or tender has
 9 been made, fifty percent of the difference between the amount paid or tendered and
 10 the amount found to be due as well as reasonable attorney fees and costs or ten
 11 thousand dollars, whichever is greater. Such penalties, if awarded, shall not be used
 12 by the insurer in computing either past or prospective loss experience for the purpose
 13 of setting rates or making rate filings.

14 * * *

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 585 Reengrossed 2021 Regular Session Geymann

Abstract: Provides relative to claims settlement practices.

Proposed law provides that an insurer shall 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.

Present law provides that failure to make payment within 30 days after receipt of such satisfactory written proofs and demand therefor or failure to make a written offer to settle any property damage claim, within 30 days after receipt of satisfactory proofs of loss of that claim, or failure to make such payment within 30 days after written agreement or settlement, shall subject the insurer to a penalty of 50% damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater, or in the event a partial payment or tender has been made, 50% of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs.

Proposed law retains present law but increases the penalty in present law for failure to make a payment or written offer to settle from 50% damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater to 50% damages on the amount found to be due from the insurer to the insured, or \$10,000, whichever is greater. Proposed law also increases the penalty for making a partial payment from 50% of the difference between the amount paid or tendered and the amount found to be due as well as reasonable

attorney fees and costs to 50% of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs or \$10,000, whichever is greater.

(Amends R.S. 22:1892(B)(1); Adds R.S. 22:1892(A)(5))

Summary of Amendments Adopted by House

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

1. Restore the time frames prescribed in present law in which insurers must pay the amount due on claims, initiate loss adjustment of a property damage claim and a claim for reasonable medical expenses, and make a written offer to settle property damage claims.
2. Change the process in proposed law for which insurers shall follow if an insured provides the insurer with an alternative adjustment with a discrepancy in damages.
3. Delete proposed law concerning the commissioner being personally liable for failing to ensure insurers comply with certain provisions of law.
4. Restore the damages amounts a claimant is entitled to in present law when an insurer breaches certain imposed duties.

The House Floor Amendments to the engrossed bill:

1. Delete the damage estimate dispute resolution provisions for property damage claims in proposed law.
2. Make a technical change.