

Regular Session, 2014

SENATE BILL NO. 620

BY SENATOR AMEDEE

MOTOR VEHICLES. Provides for settlement practices involving certain claims against nonresident self-insurers and self-insurance plans. (8/1/14)

1 AN ACT

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

9 Be it enacted by the Legislature of Louisiana:

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

11 §880. Nonresident drivers; accidents

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

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

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

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

3           ~~(3)~~(4) Deposit his driver's license with the law enforcement agency ~~which~~  
4 **that** investigates the accident.

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

8           **C.(1) No proof of coverage as a self-insurer or under a self-insurance**  
9 **plan from the state in which the nonresident driver is a resident shall be valid**  
10 **or in compliance with the provisions of this Section unless the self-insurer or**  
11 **plan agrees to be subject to the following provisions regarding settlement of a**  
12 **claim for damages:**

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

16           **(b) The self-insurer or plan shall pay the amount of any third-party**  
17 **property damage claim and any reasonable medical expense claim due any bona**  
18 **fide third-party claimant within thirty days after written agreement of**  
19 **settlement of the claim from the third-party claimant.**

20           **(2) Failure to make a payment within thirty days after receipt of**  
21 **satisfactory proof of loss as provided in Subparagraph (1)(a) of this Subsection**  
22 **or within thirty days after written agreement of settlement as provided in**  
23 **Subparagraph (1)(b) of this Subsection when the failure is found to be**  
24 **arbitrary, capricious, or without probable cause, shall subject the self-insurer**  
25 **or self-insurance plan to a penalty, in addition to the amount of the loss or**  
26 **settlement agreement, of fifty percent damages on the amount due or one**  
27 **thousand dollars, whichever is greater, payable to the respective claimant or if**  
28 **a partial payment or tender has been made, fifty percent of the difference**  
29 **between the amount paid or tendered and the amount found to be due as well**

1 as reasonable attorney fees and costs.

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

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

8 (c) Any one of the following acts, if knowingly committed or performed  
9 by a self-insurer or self-insurance plan, constitutes a breach of the insurer's  
10 duties imposed in Subparagraph (3)(a) of this Subsection:

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

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

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

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

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

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

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

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#### DIGEST

Amedee (SB 620)

Present law requires that if a nonresident driver is involved in an accident and is issued a traffic citation in connection with that accident, then the nonresident driver is required to:

- (1) Show proof of liability insurance coverage as required by law,
- (2) Post a bond in an amount sufficient to cover the damage caused in the accident, or
- (3) Deposit his driver's license with the law enforcement agency that investigates the accident.

Proposed law retains these provisions but also allows the nonresident driver to show proof of coverage as a self-insurer or under a self-insurance plan from the state in which he is a resident.

Proposed law retains present definition of a "nonresident driver" as 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.

Proposed law provides that proof of coverage as a self-insurer or under a self-insurance plan for the nonresident driver is not valid for purposes of proposed law unless the self-insurer or plan agrees to be subject to the following provisions regarding settlement of a claim for damages:

- (1) The self-insurer or plan shall pay the amount of any claim due a claimant within 30 days after receipt of satisfactory proof of loss from the claimant or any party in interest.
- (2) The self-insurer or plan shall pay the amount of any third-party property damage claim and any reasonable medical expense claim due any bona fide third-party claimant within 30 days after written agreement of settlement of the claim from the third-party claimant.

Proposed law provides that failure to make a payment within 30 days after receipt of satisfactory proof of loss or within 30 days after written agreement of settlement when the failure is found to be arbitrary, capricious, or without probable cause, shall subject the self-insurer or self-insurance plan to a penalty, in addition to the amount of the loss or settlement agreement, of 50% damages on the amount due or \$1,000, whichever is greater, payable to the respective claimant. Provides that if a partial payment or tender has been made, a penalty of 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 provides that the self-insurer or self-insurance plan owes a duty of good faith and fair dealing to the injured claimant and has an affirmative duty to adjust any claim fairly and promptly and to make a reasonable effort to settle any claim with a claimant. Provides that any self-insurer or self-insurance plan who breaches these duties is liable for any damages sustained as a result of the breach.

Proposed law provides that any one of the following acts, if knowingly committed or performed by a self-insurer or self-insurance plan, constitutes a breach of the insurer's duties imposed under proposed law:

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to any coverages at issue.
- (2) Failing to pay a settlement within 30 days after an agreement is reduced to writing.
- (3) Denying coverage or attempting to settle a claim on the basis of an application that the self-insurer or self-insurance plan knows was altered without notice to, or knowledge or consent of, the claimant.
- (4) Misleading a claimant as to the applicable prescriptive period.
- (5) Failing to pay the amount of any claim due a claimant within 60 days after receipt of satisfactory proof of loss from the claimant when the failure is arbitrary, capricious, or without probable cause.

Proposed law provides that in addition to any general or special damages to which a claimant is entitled for breach of the imposed duty under proposed law, the claimant may be awarded penalties assessed against self-insurer or self-insurance plan in an amount not to exceed two times the damages sustained or \$5,000, whichever is greater.

Effective August 1, 2014.

(Amends R.S. 32:880)