

2018 Regular Session

HOUSE BILL NO. 720

BY REPRESENTATIVES LEGER, ANDERS, CONNICK, COX, HAZEL, JACKSON,  
GREGORY MILLER, PUGH, SCHEXNAYDER, AND SHADOIN

PRESCRIPTION: Provides relative to liberative prescription

1 AN ACT

2 To amend and reenact R.S. 22:1973(F) and to enact R.S. 22:1892(E) and 1973(E), relative  
3 to liberative prescription; to provide for a ten-year liberative prescriptive period for  
4 certain acts of bad faith; to provide for applicability; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1973(F) is hereby amended and reenacted and R.S. 22:1892(E)  
8 and 1973(E) are 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 \* \* \*

14 E. Notwithstanding any other provision of law, an insured's action pursuant  
15 to this Section is subject to a liberative prescription of ten years. This prescription  
16 commences to run at the time of each bad faith act in violation of this Section.

17 \* \* \*

18 §1973. Good faith duty; claims settlement practices; cause of action; penalties

19 \* \* \*

1           E. Notwithstanding any other provision of law, an insured's action pursuant  
2           to this Section is subject to a liberative prescription of ten years. This prescription  
3           commences to run at the time of each bad faith act in violation of this Section.

4           F. The Louisiana Insurance Guaranty Association ~~Fund~~, as provided in R.S.  
5           22:2051 et seq., shall not be liable for any special damages awarded under the  
6           provisions of this Section.

7           Section 2. The provisions of this Act shall be given prospective and retroactive  
8           application.

9           Section 3. This Act shall become effective upon signature by the governor or, if not  
10          signed by the governor, upon expiration of the time for bills to become law without signature  
11          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
12          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
13          effective on the day following such approval.

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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)]

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HB 720 Original

2018 Regular Session

Leger

**Abstract:** Provides a 10-year liberative prescriptive period for certain acts of bad faith with respect to the payment of insurance claims.

Present law requires certain insurers to pay the amount of any claim due to any insured within 30 days after receipt of satisfactory proof of loss from the insured or any party in interest and also requires insurers to pay the amount of any third party property damage claim and of any reasonable medical expenses claim due to any bona fide third party claimant within 30 days after written agreement of settlement of the claim from any third party claimant.

Present law requires the insurer to initiate loss adjustment of a property damage claim and of a claim for reasonable medical expenses within 14 days after notification of loss by the claimant, but provides 30 days and possible extensions in the case of catastrophic loss and certain declared emergencies.

Present law requires all insurers to make a written offer to settle any property damage claim, including a third-party claim, within 30 days after receipt of satisfactory proof of loss of that claim.

Present law provides that failure to comply with the requirements of present law, when such failure is found to be arbitrary, capricious, or without probable cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of fifty percent damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater,

payable to the insured, 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.

Present law provides that an insurer owes to his insured a duty of good faith and fair dealing, and that the insurer has an affirmative duty to adjust claims fairly and promptly and to make a reasonable effort to settle claims with the insured or the claimant, or both, and further provides that any insurer who breaches these duties shall be liable for any damages sustained as a result of the breach.

Present law provides a listing of certain acts which constitute a breach of the insurer's duties, including the failure to pay claims pursuant to present law when such failure is arbitrary, capricious, or without probable cause, and provides that the claimant may be awarded penalties assessed against the insurer in an amount not to exceed two times the damages sustained or \$5,000, whichever is greater.

Proposed law retains present law.

Proposed law provides a 10-year prescriptive period for violations of present law, and provides that the prescriptive period commences to run at the time of each bad faith act.

Proposed law provides that the provisions of proposed law shall be applied prospectively and retroactively.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1973(F); Adds R.S. 22:1892(E) and 1973(E))