

2025 Regular Session

HOUSE BILL NO. 437

BY REPRESENTATIVE FIRMENT

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

INSURANCE CLAIMS: Provides settlement practices for claims relative to property and rentals of motor vehicles

1 AN ACT

2 To amend and reenact R.S. 22:1892(A)(7), (B)(4), and (B)(5)(introductory paragraph) and
3 (b) and to enact R.S. 22:1892(A)(8) and 1892.3, relative to property and casualty
4 insurance; to provide for payments of claims for property damage; to provide for
5 payments of deductibles; to provide for insurers' payments for replacement costs of
6 insured property; to provide for sources used to determine retail costs; to provide
7 with respect to motor vehicle insurance; to provide for first-party insureds and
8 third-party claimants; to provide for settlement practices relative to claims for rental
9 vehicles; to provide for penalties; to provide for proof of loss statements with respect
10 to insurers' payments of claims; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1892(A)(7), (B)(4), and (B)(5)(introductory paragraph) and (b)
13 are hereby amended and reenacted and R.S. 22:1892(A)(8) and 1892.3 are hereby enacted
14 to read as follows:

15 §1892. Payment and adjustment of claims; policies other than life and health and
16 accident; good faith duty; breach of good faith duty; vehicle damage claims;
17 extension of time to respond to claims during emergency or disaster;
18 penalties; arson-related claims suspension; definitions

19 A.

20 * * *

B.

* * *

(4)(a) ~~Whenever~~ If a property damage claim is on a personal vehicle owned by the ~~third party~~ third-party claimant and as a direct consequence of the inactions of the insurer ~~and the third party~~ in settling the third-party claimant's loss, the ~~third party~~ third-party claimant is deprived of use of the personal vehicle for more than five ~~working business~~ days, ~~excluding Saturdays, Sundays, and holidays~~, the insurer responsible for payment of the claim shall pay, to the extent legally responsible, for reasonable expenses incurred by the ~~third party~~ third-party claimant in obtaining alternative transportation for the entire period of time during which the ~~third party~~ third-party claimant is without the use of his personal vehicle. ~~Failure~~ If the insurer fails to make such payment within thirty days after receipt of adequate written proof and demand therefor, ~~when such~~ and the failure is found to be arbitrary, capricious, or without probable cause, ~~shall subject~~ the insurer is subject to, in addition to the amount of ~~such~~ reasonable expenses incurred, a reasonable penalty not to exceed ten percent of such reasonable expenses or ~~one~~ two thousand five hundred dollars, whichever is greater, together with reasonable ~~attorneys~~ attorney fees for the collection of such expenses.

(b) In a first-party claim, if an insurer fails to provide an insured who is
entitled to a rental vehicle under his policy with rental vehicle coverage within three

1 business days of the insured's written request for such, and the insurer's failure is
2 found to be arbitrary, capricious, or without probable cause, the insurer is subject to,
3 in addition to the amount of reasonable expenses incurred by the first-party insured,
4 a reasonable penalty not to exceed fifty percent of such reasonable expenses or two
5 thousand five hundred dollars, whichever is greater.

6 (5) ~~When~~ If an insurance policy provides for the adjustment and settlement
7 of first-party motor vehicle total losses on the basis of actual cash value or
8 replacement with another of like kind and quality, and the insurer elects a cash
9 settlement based on the actual cost to purchase a comparable motor vehicle, such
10 costs shall be derived by using one of the following:

11 * * *

12 (b) The retail cost as determined from a ~~generally recognized~~ used motor
13 vehicle industry source generally recognized by the business industry including but
14 not limited to insurers, bankers, and loan officers, such as, ~~such as,~~ an electronic
15 database, if the valuation documents generated by the database are provided to the
16 first-party claimant, or a guidebook that is available to the general public. If the
17 insured demonstrates, by presenting two independent appraisals, based on
18 measurable and discernable factors, including the vehicle's preloss condition, that the
19 vehicle would have a higher cash value in the local market area than the value
20 reflected in the source's database or the guidebook, the local market value shall be
21 used in determining the actual cash value.

22 * * *

23 §1892.3. Payment of claims; property policies; proof of loss statements

24 A. An insurer issuing any type of insurance policy, other than those specified
25 in R.S. 22:1811 and 1821, and Chapter 10 of Title 23 of the Louisiana Revised
26 Statutes of 1950, may require the claimant to submit a proof of loss statement as a
27 prerequisite to making payment on the claim.

28 B. The insurer may require a proof of loss statement on a form that is the
29 same or substantially similar to the proof of loss statement form prescribed by the

1 commissioner. Prior to requiring a proof of loss statement as a prerequisite to
2 making payment on a claim, the insurer shall file its proof of loss statement with the
3 commissioner and receive approval from the commissioner.

4 C. If an insurer requires submission of a proof of loss statement as a
5 prerequisite to making payment on a claim, the insurer shall provide the proof of loss
6 statement form to the claimant within ten business days of receiving the claim. The
7 insurer shall also maintain the proof of loss statement form on its website in a
8 location easily accessible by claimants.

9 D. If an insurer requires submission of a proof of loss statement as a
10 prerequisite to making payment on a claim, the insurer's receipt of a completed proof
11 of loss statement from the claimant is the only means of constituting satisfactory
12 proof of loss, as required by R.S. 22:1892 and 1892.2. Within ten business days of
13 receipt of a proof of loss statement, the insurer shall notify the claimant whether the
14 proof of loss statement was complete or incomplete.

15 E. The commissioner may promulgate and adopt rules and regulations in
16 accordance with the Administrative Procedure Act for the implementation and
17 enforcement of this Section.

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 437 Original

2025 Regular Session

Firmment

Abstract: Requires claimants to meet deductible payments, authorizes insurers to require proof of loss statements, and increases penalties for insurers who fail to timely settle claims for rental vehicles.

Proposed law authorizes an insurer issuing a property insurance policy with replacement cost coverage to refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback until the insurer receives reasonable proof of the policyholder's payment of any applicable deductible. Provides methods of reasonable proof of payment including but not limited to a canceled check, credit card statement, or a copy of a financing arrangement that requires full payment of the deductible over time.

Present law provides a method for determining retail costs of property. Provides for retail costs to be determined by a generally recognized used motor vehicle industry source such as an electronic database or guidebook with certain features. Proposed law modifies the

source as a used motor vehicle source generally recognized by the business industry. Otherwise retains present law.

Proposed law authorizes insurers issuing property insurance policies to require claimants to submit a proof of loss statement before the insurer makes payment on the claim. Requires insurers to provide a proof of loss statement form to claimants that is the same or substantially similar to the form prescribed by the commissioner of insurance (commissioner). Further requires insurers to file their proof of loss statement with the commissioner and receive approval prior to requiring claimants to complete the form.

Proposed law requires insurers that mandate a proof of loss statement to provide the insurer's form to the claimant within 10 business days of receiving the claim. Further requires insurers to make the proof of loss statement form easily accessible on their website.

Proposed law provides that if an insurer requires a proof of loss statement, the insurer's receipt of a completed proof of loss statement from the claimant will be the only means of constituting satisfactory proof of loss, as required by present law (R.S. 22:1892 and 1892.2). Further requires insurers to notify claimants whether the proof of loss statement was complete or incomplete within 10 business days of receipt of the statement.

Proposed law authorizes the commissioner to promulgate and adopt rules and regulations in accordance with the APA for implementing and enforcing proposed law related to proof of loss statements.

Present law requires an insurer to pay reasonable expenses incurred by a third-party claimant who obtains alternative transportation when the claimant is without the use of his personal vehicle; the third-party claimant has filed a property damage claim on the vehicle; and the consequential inactions of the insurer cause the claimant to be deprived of the vehicle's use for more than five working days, excluding Saturdays, Sundays, and holidays.

Proposed law retains present law and clarifies five working days as five business days.

Present law provides that if an insurer fails to pay the third-party claimant within 30 days after receipt of adequate written proof and demand, and the insurer's failure is found to be arbitrary, capricious, or without probable cause, the insurer is required to pay the third-party claimant's reasonable expenses and a penalty not to exceed 10% of the reasonable expenses or \$1,000, whichever is greater, along with reasonable attorney fees.

Proposed law retains present law but increases a portion of the potential penalty from \$1,000 to \$2,500.

Proposed law provides that if an insurer fails to provide rental vehicle coverage to a first-party insured who is entitled to coverage within three business days of the insured's written request, and the insurer's failure is found to be arbitrary, capricious, or without probable cause, the insurer is required to pay the first-party insured's reasonable expenses and a penalty not to exceed 50% of the reasonable expenses or \$2,500, whichever is greater.

(Amends R.S. 22:1892(A)(7), (B)(4), and (B)(5)(intro. para.) and (b); Adds R.S. 22:1892(A)(8) and 1892.3)