
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

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

Present law provides that except in the case of catastrophic loss, the insurer shall 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. Further provides that in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within 30 days after notification of loss by the claimant except that the commissioner may promulgate a rule for extending the time period for initiating a loss adjustment. Failure to comply with present law shall subject the insurer to penalties provided in present law.

Proposed law retains present law and adds that failure to comply with present law when the failure has been arbitrary, capricious, or without probable cause may subject the insurer to the penalties provided in present law. Further provides that initiation of loss adjustment includes but is not limited to any of the following:

- (1) A reasonable attempt by the insurer to contact the claimant to set an appointment to discuss the claim or to conduct an inspection of the property.
- (2) An oral, written, or electronic communication sent by the insurer to the claimant outlining the claims process.
- (3) An advance of funds by the insurer to the claimant that is accompanied by an oral, written, or electronic communication that includes an explanation of the claims process.
- (4) A reasonable attempt to begin the investigation of the claim, including but not limited to a reasonable attempt to contact witnesses, to inspect any property or accident scenes related to the claim, or to determine the value of the claim.

Present law provides that an insurer owes to his insured a duty of good faith and fair dealing which includes an affirmative duty to adjust claims fairly and promptly and to make a reasonable effort to settle claims. Further specifies certain acts that constitute a breach of the insurer's duties to the insured.

Proposed law retains present law and adds factors to be considered in determining the amount of a penalty to be awarded, if any, pursuant to present law including whether the insured sustained

any actual damages, the reasonableness of the insurer's conduct in light of all the circumstances related to the claim, and whether there were extenuating circumstances that affected the insurer's ability to pay the claim or initiate loss adjustment.

Effective August 1, 2012.

(Amends R.S. 22:1892(A)(3) and 1973(B)(6))