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

DIGEST

LaFleur (SB 311)

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 permits the commissioner to promulgate a rule for extending the time period for initiating a loss adjustment not to exceed 60 days. Removes the ability of the commissioner to promulgate a rule for extending the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or gubernatorially declared emergency or disaster up to an additional 30 days. Further removes the provision for only one additional extension of the period of time for initiating a loss adjustment that must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.

Proposed law provides that initiation of loss adjustment shall be satisfied if the insurer establishes one of the following:

1. The insurer has unconditionally tendered all undisputed amounts owed.
2. The insurer has met with the insured.
3. The insurer has proof that an inspection of the property has taken place within the established time periods.

Proposed law provides for an effective date of August 1, 2012.

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))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill.

1. Permits the commissioner to promulgate a rule for extending the time period for initiating a loss adjustment not to exceed 60 days.
2. Removes the ability of the commissioner to promulgate a rule for extending the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or gubernatorially declared emergency or disaster up to an additional 30 days. Further removes the provision for only one additional extension of the period of time for initiating a loss adjustment that must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately.
3. Removes the reference to the failure to comply with the time extensions when the failure has been arbitrary, capricious, or without probable cause.
4. Provides that initiation of loss adjustment shall be satisfied if the insurer establishes one of the following:
 - (a) The insurer has unconditionally tendered all undisputed amounts owed.
 - (b) The insurer has met with the insured.
 - (c) The insurer has proof that an inspection of the property has taken place within the established time periods.
5. Requires the provisions of proposed law to be effective August 1, 2012.