

2021 Regular Session

HOUSE BILL NO. 469

BY REPRESENTATIVE LARVADAIN

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

INSURANCE/HOMEOWNERS: Provides relative to homeowner's insurance claims settlement practices

1 AN ACT

2 To amend and reenact R.S. 22:1892(A)(1) and (B)(1) and 1973(B)(introductory paragraph),
3 (5), and (6) and (C) and to enact R.S. 22:1973(B)(7), relative to homeowner's
4 insurance claims settlement practices; to provide for certain claims settlement
5 practices; to provide for penalties for insurers failing to provide timely payment or
6 on claims; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1892(A)(1) and (B)(1) and 1973(B)(introductory paragraph), (5),
9 and (6) and (C) are hereby amended and reenacted and R.S. 22:1973(B)(7) is hereby enacted
10 to read as follows:

11 §1892. Payment and adjustment of claims, policies other than life and health and
12 accident; personal vehicle damage claims; extension of time to respond to
13 claims during emergency or disaster; penalties; arson-related claims
14 suspension

15 A.(1) All insurers issuing any type of contract, other than those specified in
16 R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of
17 1950, shall pay the amount of any claim due any insured within thirty days after
18 receipt of satisfactory proofs of loss from the insured or any party in interest.

19 Inspection of the property and damage incurred by the insured is satisfactory proof

1 of loss. The insurer shall notify the insurance producer of record of all such
2 payments for property damage claims made in accordance with this Paragraph.

3 * * *

4 B.(1) Failure to make such payment within thirty days after receipt of such
5 satisfactory written proofs and demand therefore or failure to make a written offer
6 to settle any property damage claim, including a third-party claim, within thirty days
7 after receipt of satisfactory proofs of loss of that claim, as provided in Paragraphs
8 (A)(1) and (4) of this Section, respectively, or failure to make such payment within
9 thirty days after written agreement or settlement as provided in Paragraph (A)(2) of
10 this Section when such failure is found to be arbitrary, capricious, or without
11 probable cause, shall subject the insurer to a penalty, in addition to the amount of the
12 loss, of ~~fifty percent damages on the amount found to be due from the insurer to the~~
13 ~~insured, or one thousand dollars~~ an amount not to exceed two times the damages
14 sustained or five thousand dollars, whichever is greater, payable to the insured, or to
15 any of said employees, or in the event a partial payment or tender has been made,
16 ~~fifty percent~~ two times of the difference between the amount paid or tendered and the
17 amount found to be due as well as reasonable attorney fees and costs. Such
18 penalties, if awarded, shall not be used by the insurer in computing either past or
19 prospective loss experience for the purpose of setting rates or making rate filings.

20 * * *

21 §1973. Good faith duty; claims settlement practices; cause of action; penalties

22 * * *

23 B. Any one of the following acts, if ~~knowingly~~ committed or performed by
24 an insurer, constitutes a breach of the insurer's duties imposed in Subsection A of this
25 Section:

26 * * *

27 (5) Failing to pay the amount of any claim due any person insured by the
28 contract within sixty days after receipt of satisfactory proof of loss from the
29 claimant, unless the insurer can prove ~~when such failure is arbitrary, capricious, or~~

1 ~~without probable cause~~ was caused by burdensome behavior by the insured.
2 Inspection of the property and damage incurred by insured is satisfactory proof of
3 loss.

4 (6) Failing to pay claims pursuant to R.S. 22:1893, unless the insurer can
5 prove when such failure was caused by burdensome behavior by the insured is
6 arbitrary, capricious, or without probable cause.

7 (7) Extending the claims process by allowing more than three insurance
8 adjusters, employed or contracted by the insurer, to adjust the claim without the
9 express written consent of the insured.

10 C. In addition to any general or special damages to which a claimant is
11 entitled for breach of the imposed duty, the claimant ~~may~~ shall be awarded penalties
12 assessed against the insurer in an amount not to exceed two times the damages
13 sustained or five thousand dollars, whichever is greater. Such penalties, if awarded,
14 shall not be used by the insurer in computing either past or prospective loss
15 experience for the purpose of setting rates or making rate filings. The insured is
16 required to only show his damages, which shall be doubled, if there is a finding of
17 bad faith.

18 * * *

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 469 Original

2021 Regular Session

Larvadain

Abstract: Provides for homeowner's insurance claims settlement practices.

Present law provides that knowingly failing to pay the amount of any claim due any person insured by the contract within 602 days after receipt of proof of loss from claimant, when such failure is arbitrary, capricious, or without probable cause constitutes a breach of the insurer's duties.

Proposed law removes the requirement that the failure to pay in present law be done knowingly.

Proposed law changes the standard for the insured's conduct necessary to exempt the insurer from his duty in present law from arbitrary, capricious, or without probable actions by the insured to burdensome behavior by the insured.

Proposed law provides that inspection of the property and damage incurred is satisfactory proof of loss.

Present law provides that failure to pay claims pursuant to present law (R.S. 22:1893) when such failure is arbitrary, capricious, or without probable cause constitutes a breach of the insurer's duties.

Proposed law changes the standard for the insured's conduct necessary to exempt the insurer from his duty in present law from arbitrary, capricious, or without probable actions by the insured to burdensome behavior by the insured.

Proposed law provides that extending the claims process by allowing more than three insurance adjusters, employed or contracted by the insurer, to adjust the claim without the express written consent of the insured constitutes a breach of the insurer's duties.

Present law provides that in addition to any general or special damages to which a claimant is entitled for breach of the imposed duty, 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 but changes the imposition of the penalty in present law from being permissive to being mandatory.

Proposed law provides that the insured is required to only show his damages, which shall be doubled, if there is a finding of bad faith.

Present law provides that all insurers issuing any type of contract, other than those specified in present law (R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950), shall pay the amount of any claim due any insured within 30 days after receipt of satisfactory proofs of loss from the insured or any party in interest.

Proposed law retains present law and provides that inspection of the property and damage incurred by the insured is satisfactory proof of loss.

Present law provides that failure to make payment on a claim within the time frame provided in present law shall subject the insurer to a penalty, in addition to the amount of the loss, of 50% damages on the amount found to be due from the insurer to the insured, or \$1,000 payable to the insured.

Proposed law retains present law but changes the penalty from 50% damages on the amount found to be due from the insurer to the insured, or \$1,000 payable to the insured to an amount not to exceed twice the damages sustained or \$5,000, whichever is greater.

Present law provides that in the event a partial payment or tender has been made, the insurer shall be subject to 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 retains present law but changes the penalty from 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 to twice the amount found to be due as well as reasonable attorney fees and costs.

(Amends R.S. 22:1892(A)(1) and (B)(1) and 1973(B)(intro. para.), (5), and (6) and (C); Adds R.S. 22:1973(B)(7))