

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

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4 (3) Except in the case of catastrophic loss, the insurer shall initiate loss
5 adjustment of a property damage claim and of a claim for reasonable medical
6 expenses within ~~fourteen~~ seven days after notification of loss by the claimant. In the
7 case of catastrophic loss, the insurer shall initiate loss adjustment of a property
8 damage claim within ~~thirty~~ fifteen days after notification of loss by the claimant
9 except that the commissioner may promulgate a rule for extending the time period
10 for initiating a loss adjustment for damages arising from a presidentially declared
11 emergency or disaster or a gubernatorially declared emergency or disaster up to an
12 additional thirty days. Thereafter, only one additional extension of the period of time
13 for initiating a loss adjustment may be allowed and must be approved by the Senate
14 Committee on Insurance and the House Committee on Insurance, voting separately.
15 Failure to comply with the provisions of this Paragraph shall subject the insurer to
16 the penalties provided in R.S. 22:1973.

17 (4) All insurers shall make a written offer to settle any property damage
18 claim, including a third-party claim, within ~~thirty~~ fifteen days after receipt of
19 satisfactory proofs of loss of that claim.

20 (5) If an insured provides the insurer with an alternative adjustment from a
21 licensed adjuster in which there is a discrepancy in damage estimates equal to or
22 greater than ten thousand dollars, the insurer shall base his damage estimate on the
23 insured's adjustment or conduct an additional onsite adjustment using an independent
24 claims adjuster within ten days of receiving the insured's adjustment, with all costs
25 associated with the additional adjuster being paid by the insurer.

26 B.(1) Failure to make such payment within ~~thirty~~ fifteen days after receipt
27 of such satisfactory written proofs and demand therefor or failure to make a written
28 offer to settle any property damage claim, including a third-party claim, within ~~thirty~~
29 fifteen days after receipt of satisfactory proofs of loss of that claim, as provided in

1 Paragraphs (A)(1) and (4) of this Section, respectively, or failure to make such
 2 payment within thirty days after written agreement or settlement as provided in
 3 Paragraph (A)(2) of this Section when such failure is found to be arbitrary,
 4 capricious, or without probable cause, shall subject the insurer to a penalty, in
 5 addition to the amount of the loss, of fifty percent damages on the amount found to
 6 be due from the insurer to the insured, or ~~one thousand~~ ten thousand dollars,
 7 whichever is greater, payable to the insured, or to any of said employees, or in the
 8 event a partial payment or tender has been made, fifty percent of the difference
 9 between the amount paid or tendered and the amount found to be due as well as
 10 reasonable attorney fees and costs or ten thousand dollars, whichever is greater. Such
 11 penalties, if awarded, shall not be used by the insurer in computing either past or
 12 prospective loss experience for the purpose of setting rates or making rate filings.

13 * * *

14 §1897. Liability of the commissioner

15 Failure to ensure insurers comply with the provisions of this Part may subject
 16 the commissioner to personal liability for damages that result from such failure,
 17 notwithstanding applicable qualified immunity laws.

18 * * *

19 §1973. Good faith duty; claims settlement practices; cause of action; penalties

20 * * *

21 C. In addition to any general or special damages to which a claimant is
 22 entitled for breach of the imposed duty, the claimant may be awarded penalties
 23 assessed against the insurer in an amount not to exceed ~~two~~ four times the damages
 24 sustained or ~~five thousand~~ ten thousand dollars, whichever is greater. Such penalties,
 25 if awarded, shall not be used by the insurer in computing either past or prospective
 26 loss experience for the purpose of setting rates or making rate filings.

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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)]

HB 585 Original

2021 Regular Session

Geymann

Abstract: Provides relative to claims settlement practices.

Present law provides that all insurers issuing any type of contract, other than those specified in present law, 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 but changes the time frame to make payment on claims from 30 days to 15 days.

Present law provides that except in the case of catastrophic loss, insurers 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.

Proposed law retains present law but changes the time frame to initiate adjustment on claims from 14 days to 7 days.

Present law provides that in the case of catastrophic loss, insurers shall initiate loss adjustment of a property damage claim within 30 days after notification of loss by the claimant.

Proposed law retains present law but changes the time frame to initiate adjustment on claims from 30 days to 15 days.

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

Proposed law retains present law but changes the time frame to make a written offer to settle from 30 days to 15 days.

Proposed law provides that if an insured provides the insurer with an alternative adjustment from a licensed adjuster in which there is a discrepancy in damage estimates equal to or greater than \$10,000, the insurer shall base his damage estimate on the insured's adjustment or conduct an additional on site adjustment using an independent claims adjuster within 10 days of receiving the insured's adjustment, with all costs associated with the additional adjuster being paid by the insurer.

Present law provides that failure to make payment within 30 days after receipt of such satisfactory written proofs and demand therefor or failure to make a written offer to settle any property damage claim, within 30 days after receipt of satisfactory proofs of loss of that claim, or failure to make such payment within 30 days after written agreement or settlement, shall subject the insurer to a penalty of 50% damages on the amount found to be due from the insurer to the insured, or \$1,000, whichever is greater, 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.

Proposed law retains present law but reduces the time frames established in present law in half and increases the penalty in present law for failure to make a payment or written offer to settle from 50% damages on the amount found to be due from the insurer to the insured,

or \$1,000, whichever is greater to 50% damages on the amount found to be due from the insurer to the insured, or \$10,000, whichever is greater. Proposed law also increases the penalty for making a partial payment 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 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 or \$10,000, whichever is greater.

Present law provides that in addition to any general or special damages to which a claimant is entitled for breach of imposed duties, 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 increases the penalties claimants may be awarded from an amount not to exceed two times the damages sustained or \$5,000, whichever is greater to an amount not to exceed four times the damages sustained or \$10,000, whichever is greater.

Proposed law provides that the commissioner of insurance may be held personally liable for damages that result from his failure to ensure that insurers comply with the provisions of present law.

(Amends R.S. 22:1892(A)(1), (3), and (4) and (B)(1) and 1973(C); Adds R.S. 22:1892(A)(5) and 1897)