

Regular Session, 2010

SENATE BILL NO. 595

BY SENATOR QUINN AND REPRESENTATIVE LEGER

INSURANCE CLAIMS. Prohibits increase in policy premium, homeowners' deductible, or a failure to renew or cancellation of certain policies due to presence of Chinese drywall. (gov sig)

1 AN ACT

2 To enact R.S. 22:1272 and 1338, relative to property insurance; to prohibit certain actions
3 involving insurance policies due to the presence of certain Chinese drywall; to
4 provide penalties for violations; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1272 and 1338 are hereby enacted to read as follows:

7 **§1272. Commercial property insurance; prohibited actions involving Chinese**
8 **drywall; penalty**

9 **A. No insurer shall cancel, fail to renew, or increase the amount of the**
10 **premium on any policy providing property, casualty, or liability insurance on**
11 **any commercial property based on the presence of drywall in the insured**
12 **property or the filing of a claim by an insured that is based on the presence of**
13 **drywall which, prior to December 31, 2009, was imported from, or**
14 **manufactured in, the People's Republic of China.**

15 **B. Any insurer violating the provisions of this Section shall be subject to**
16 **a penalty to be imposed by the commissioner which penalty shall equal an**
17 **amount up to one-half the insured value of the property, plus all attorney fees,**

1 expenses, and court costs incurred by the property owner in having the policy
2 reinstated.

3 C. Any insurer which has canceled, failed to renew, or increased a policy
4 premium or deductible after an insured has made a claim due to the presence
5 of Chinese drywall shall have thirty days from the effective date of this Section
6 to reinstate the policy on the same terms and conditions that applied to the
7 policy prior to the claim or be in violation of the provisions of this Section.

8 * * *

9 §1338. Homeowners' insurance; prohibited actions involving Chinese drywall;
10 penalty

11 A. No insurer shall cancel, fail to renew, or increase the amount of the
12 premium or the policy deductible on any homeowners' insurance policy,
13 regardless of whether the policy has been in effect for less than three years,
14 based on the presence of Chinese drywall in the insured property or the filing
15 of a claim by an insured that is based on the presence of Chinese drywall which,
16 prior to December 31, 2009, was imported from, or manufactured in, the
17 People's Republic of China.

18 B. Any insurer violating the provisions of this Section shall be subject to
19 a penalty to be imposed by the commissioner which penalty shall equal an
20 amount up to one-half the insured value of the home, plus all attorney fees,
21 expenses, and court costs incurred by the homeowner in having the policy
22 reinstated.

23 C. Any insurer which has canceled, failed to renew, or increased a policy
24 premium or deductible after an insured has made a claim due to the presence
25 of Chinese drywall shall have thirty days from the effective date of this Section
26 to reinstate the policy on the same terms and conditions that applied to the
27 policy prior to the claim or be in violation of the provisions of this Section.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

Quinn (SB 595)

Proposed law prohibits a homeowners' insurer or a commercial property, casualty, or liability insurer from canceling, failing to renew, increasing the policy deductible on homeowners' policy, or increasing the premium on any insurance policy when such action is based on the presence of Chinese drywall or the filing of a claim by an insured that is based on the presence of Chinese drywall which, prior to December 31, 2009, was imported from, or manufactured in, the People's Republic of China.

Requires that any insurer in violation of proposed law be subject to a penalty to be imposed by the commissioner equal an amount up to one-half the insured value of the property, plus all attorney fees, expenses, and court costs incurred by the property owner in having the policy reinstated.

Proposed law provides that any which has canceled, failed to renew, or increased a policy premium or deductible after an insured has made a claim due to the presence of Chinese drywall shall have 30 days from the effective date of proposed law to reinstate the policy on the same terms and conditions that applied to the policy prior to the claim or be in violation of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1272 and 1338)

Summary of Amendments Adopted by Senate

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

1. Removes reference to drywall having elevated levels of strontium sulfide, or to capability of the drywall, when exposed to heat or humidity, to release sulfur dioxide, hydrogen sulfide, carbon disulfide, or other similar compounds.
2. Removes reference to drywall being designated by the U.S. Consumer Product Safety Commission as a defective product.
3. Changes penalty provisions.
4. Adds provisions requiring insurers to reinstate policies within 30 days of effective date of proposed law or be subject to penalty provisions.