

2021 Regular Session
HOUSE BILL NO. 591
BY REPRESENTATIVE FIRMENT

ACT No. 345

1 AN ACT

2 To enact R.S. 22:1892(B)(6) and (E) through (G), relative to claims settlement practices; to
3 provide for the definitions; to provide for insurance coverage of damaged property;
4 to prohibit insurers from requiring insureds to use a preferred vendor or contractor;
5 to provide for the adjustment and settlement of first-party losses under fire and
6 extended coverage policies; to provide required adjustment dispute resolution
7 language for residential property policies; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1892(B)(6) and (E) through (G) are hereby enacted to read as
10 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 * * *

16 B.

17 * * *

18 (6)(a) For the purposes of this Paragraph the following terms have the
19 meanings ascribed to them:

20 (i) "Damaged property" means a dwelling, structure, personal property, or
21 any other property, except a vehicle, that requires repairs, replacement, restoration,
22 or remediation to reestablish its former condition.

1 (ii) "Depreciation" means depreciation including but not limited to the cost
 2 of goods, materials, labor, and services necessary to replace, repair, or rebuild
 3 damaged property.

4 (b) An insurance policy covering damaged property may allow for
 5 depreciation.

6 (c) An insurance policy covering damaged property shall provide notice that
 7 depreciation may be deducted or withheld, in a form approved by the commissioner.

8 (d) If depreciation is applied to a loss for damaged property, the insurer shall
 9 provide a written explanation as to how the depreciation was calculated.

10 (e) Depreciation shall be reasonable and based on a combination of objective
 11 criteria and subjective assessment, including the actual condition of the property
 12 prior to loss.

13 * * *

14 E.(1) An insurer shall not require that repairs, replacement, restoration, or
 15 remediation be made to an insured's property by a particular preferred vendor or
 16 recommended contractor when making a payment on a residential or commercial
 17 property damage claim.

18 (2) An insurer shall not recommend the use of a particular preferred vendor
 19 or recommended contractor without informing the insured or claimant that the
 20 insured or claimant is under no obligation to use the preferred vendor or
 21 recommended contractor to complete repairs, replacement, restoration, or
 22 remediation of the insured's property.

23 F.(1) In the adjustment or settlement of first-party losses under fire and
 24 extended coverage policies, an insurer is required to include general contractor's
 25 overhead and profit in payments for losses when the services of a general contractor
 26 are reasonably foreseeable. This requirement applies to policies that provide for the
 27 adjustment and settlement of losses on a replacement cost basis and to policies that
 28 provide for the adjustment and settlement of losses on an actual cash value basis.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (2) The deduction of prospective contractor overhead, prospective contractor
2 profit, and sales tax in determining the actual cash value of an adjustment or
3 settlement is not allowed on replacement cost policies or on actual cash value
4 policies.

5 G. On or after January 1, 2022, residential property insurance policies shall
6 contain the following provision (with permission to substitute the word "company"
7 with a more accurate descriptive term for the insurer):

8 "Appraisal. If you and this Company fail to agree as to the amount of loss,
9 either party may demand that the amount of the loss be set by appraisal. If either
10 party makes a written demand for appraisal, each party shall select a competent
11 appraiser and notify the other party of their appraiser's identity within twenty days
12 of receipt of the written demand for appraisal. The appraisers shall select a
13 competent and impartial umpire; but, if after fifteen days the appraisers have not
14 agreed upon who will serve as umpire, the umpire shall be appointed by a judge of
15 the court of record in which the property is located. The appraisers shall then
16 appraise the loss. If the appraisers submit written notice of an agreement as to the
17 amount of the loss to this Company, the amount agreed upon shall set the amount of
18 the loss. If the appraisers fail to agree within thirty days, the appraisers shall submit
19 their differences along with any supporting documentation to the umpire, who shall
20 appraise the loss. The appraisers may extend the time to sixty days for which they
21 must agree upon the amount of loss or submit their differences and supporting
22 documents to the umpire, if the extension is agreed to by the appraisers from both
23 parties. A written agreement signed by the umpire and either party's appraiser shall
24 set the amount of the loss, pursuant to the appraisal process, but shall not preclude
25 either party from exercising its rights under the policy or the law. Each appraiser
26 shall be paid by the party selecting that appraiser. Other expenses of the appraisal
27 and the expenses of the umpire shall be divided and paid in equal shares by you and
28 this Company. If there is an appraisal award, all applicable policy terms, limits,
29 deductibles, and conditions will still apply. If you file a lawsuit relative to this policy

1 against this Company prior to a demand for appraisal, the lawsuit will be held in
2 abatement until the execution of an appraisal award."

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____