

SENATE BILL NO. 7

BY SENATORS QUINN, ADLEY, BAJOIE, BARHAM, BOASSO, BROOME, CHAISSON, CRAVINS, DARDENNE, DUPLESSIS, DUPRE, ELLINGTON, FIELDS, FONTENOT, N. GAUTREAUX, HINES, HOLLIS, JONES, LENTINI, MARIONNEAUX, MCPHERSON, MICHOT, MURRAY, NEVERS, ROMERO, SHEPHERD AND ULLO AND REPRESENTATIVES ANSARDI, ARNOLD, BADON, BALDONE, BAUDOIN, BRUCE, BRUNEAU, BURRELL, CRANE, CRAVINS, DAMICO, DARTEZ, DORSEY, DURAND, ERDEY, FANNIN, FAUCHEUX, FRITH, GLOVER, GREENE, HARRIS, HEBERT, JACKSON, JOHNS, KATZ, KENNEY, LABRUZZO, LAFLEUR, LAFONTA, LANCASTER, MARTINY, MCDONALD, MCVEA, PIERRE, PITRE, QUEZAIRE, RICHMOND, ROMERO, SALTER, SCALISE, SCHNEIDER, GARY SMITH, JACK SMITH, THOMPSON, TOOMY, TOWNSEND, TRAHAN, TUCKER, WALSWORTH, WHITE AND WOOTON

1 AN ACT

2 To enact R.S. 22:658.2 and 1220(B)(6), relative to determining insurance coverage for
3 damage to immovable property; to prohibit the denial of coverage under certain
4 circumstances; to provide that the insurer has the burden to establish that portion of
5 a claim to be excluded from coverage; to prohibit an insurer from using certain
6 floodwater marks or the fact that a structure has been moved from its foundation as
7 exclusive proof on which to deny coverage; to provide that policy provisions altering
8 the burden of an insurer are null and void; to provide for policy provisions
9 attempting to shift the burden on an insurer; to define bad faith regarding claims
10 handling; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 22:658.2 and 1220(B)(6) are hereby enacted to read as follows:

3 §658.2. Claims involving immovable property

4 A.(1) No insurer shall use the floodwater mark on a covered structure
5 without considering other evidence, when determining whether a loss is covered
6 or not covered under a homeowners' insurance policy.

7 (2) No insurer shall use the fact that a home is removed or displaced
8 from its foundation without considering other evidence, when determining
9 whether a loss is covered or not covered under a homeowners' insurance policy.

10 B. If damage to immovable property is covered, in whole or in part,
11 under the terms of the policy of insurance, the burden is on the insurer to
12 establish an exclusion under the terms of the policy.

13 C. Any clause, condition, term, or other provision contained in any policy
14 of insurance which alters or attempts to alter the burden on an insurer as
15 provided in Subsection B of this Section shall be null and void and of no effect.

16 D. Any insurer determined to be in violation of the provisions of this
17 Section shall be liable pursuant to R.S. 22:1220.

18 §1220. Good faith duty; claims settlement practices; cause of action; penalties

19 * * *

20 B. Any one of the following acts, if knowingly committed or performed by
21 an insurer, constitutes a breach of the insurer's duties imposed in Subsection A:

22 * * *

23 (6) Failing to pay claims pursuant to R.S. 22:658.2 when such failure is
24 arbitrary, capricious, or without probable cause.

25 * * *

26 Section 2. The provisions of this Act are severable. If any provision, item, sentence
27 or word of this Act, or application thereof, is held to be invalid, such invalidity shall not
28 effect other provisions, items, sentences or words of this Act which are to be given effect
29 without the invalid provision, item, sentence or word of the Act

30 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____