

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2102
By: Capriglione (Zaffirini)
Business & Commerce
5/20/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2102 amends current law relating to the payment of insurance deductibles related to property insurance policies and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 707.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 5, Insurance Code, by adding Chapter 707, as follows:

CHAPTER 707. PAYMENT OF INSURANCE DEDUCTIBLE

Sec. 707.001. DEFINITIONS. Defines "person" and "property insurance policy" for purposes of this chapter.

Sec. 707.002. PAYMENT OF DEDUCTIBLE REQUIRED. Requires a person insured under a property insurance policy to pay any deductible applicable to a first-party claim made under the policy.

Sec. 707.003. CONSUMER EDUCATION. Requires the Texas Department of Insurance, in coordination with other state agencies and stakeholders as necessary, to develop and implement an education program related to the payment of property insurance policy deductibles. Requires the program to provide certain information.

Sec. 707.004. REASONABLE PROOF OF PAYMENT. Authorizes an insurer that issues a property insurance policy with replacement cost coverage to refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback under the policy until the insurer receives reasonable proof of payment by the policyholder of any deductible applicable to the claim. Provides that reasonable proof of payment includes a canceled check, money order receipt, credit card statement, or copy of an executed installment plan contract or other financing arrangement that requires full payment of the deductible over time.

Sec. 707.005. RULEMAKING. Authorizes the commissioner of insurance (commissioner) to adopt rules as necessary to implement this chapter. Provides that Section 2001.0045 (Requirement For Rule Increasing Costs to Regulated Persons), Government Code, does not apply to rules adopted under this section.

SECTION 2. Amends Section 27.02, Business & Commerce Code, as follows:

Sec. 27.02. New heading: GOODS OR SERVICES PAID FOR BY INSURANCE PROCEEDS: PAYMENT OF DEDUCTIBLE REQUIRED. (a) Defines "property insurance policy" for purposes of this section.

(b) Requires a contract to provide a good or service that is reasonably expected to be paid wholly or partly from the proceeds of a claim under a property insurance policy and that has a contract price of \$1,000 or more to contain the following notice in at least 12-point boldfaced type: "Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. Provides that it is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible."

(c) Provides that a person who sells goods or services commits an offense if the person:

(1) advertises or promises to provide a good or service to an insured under a property insurance policy in a transaction in which:

(A) the good or service will be paid for by the insured from the proceeds of a property insurance claim; and

(B) the person selling the good or service will, without the insurer's consent:

(i) pay, waive, absorb, or otherwise decline to charge or collect the amount of the insured's deductible;

(ii) provide a rebate or credit in connection with the sale of the good or service that will offset all or part of the amount paid by the insured as a deductible; or

(iii) in any other manner assist the insured in avoiding monetary payment of the required insurance deductible; or

(2) provides a good or service to an insured under a property insurance policy knowing that the insured will pay for the good or service with the proceeds of a claim under the policy and, without the insurer's consent:

(A) pays, waives, absorbs, or otherwise declines to charge or collect the amount of the insured's deductible;

(B) provides a rebate or credit in connection with the sale of the good or service that offsets all or part of the amount paid by the insured as a deductible; or

(C) in any other manner assists the insured in avoiding monetary payment of the required insurance deductible.

(d) Redesignates existing Subsection (c) as Subsection (d). Provides that an offense under this section is a Class B misdemeanor, rather than a Class A misdemeanor.

Deletes existing text providing that a person who sells goods or services commits an offense if the person engages in certain activities.

SECTION 3. Makes application of Section 27.02, Business & Commerce Code, as amended by this Act, prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Makes application of Section 27.02(b), Business & Commerce Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2019.