

SUBJECT: Requiring an appraisal process for automobile insurance policies

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Oliverson, A. Johnson, Cain, Cortez, Caroline Harris, Julie Johnson, Paul

0 nays

2 absent — Hull, Perez

WITNESSES: For — Robert McDorman, Auto Claim Specialists; Regan Ellmer, Independent Insurance Agents of Texas; Kelly Taft, Texas Watch; Cindy J Hellstern (*Registered, but did not testify*: Elliott Griffin, American Adjusters Association; Jacob Smith, Auto Body Association of Texas)

Against — Jon Schnautz, National Association of Mutual Insurance Companies (*Registered, but did not testify*: Jay Thompson, Afact; Scot Kibbe, American Property Casualty Insurance Association; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions)

On — (*Registered, but did not testify*: David Bolduc, Office of Public Insurance Counsel; Marianne Baker, Texas Department of Insurance)

BACKGROUND: Some have suggested that requiring automobile insurers to include an appraisal process in their policies could help to resolve disputes related to the amount of a loss between a policyholder and an insurer and provide an alternative path to lawsuits.

DIGEST: CSHB 1437 would require a personal automobile insurance policy to contain an appraisal procedure that complied with certain requirements established by the bill. The bill would apply only to an insurer that wrote personal automobile insurance in Texas.

Under the bill, an insurer or the named insured could demand an appraisal within 90 days after the insurer accepted liability and issued an undisputed

liability offer. Each party would appoint an unbiased appraiser and notify the other party of the appraiser's identity within 15 days of a demand for an appraisal.

The appointed appraisers would be required to determine the amount of loss. If the appraisers failed to agree on an amount within 30 days of when they were appointed, the appraisers would select an unbiased umpire. If the two appraisers were unable to agree on an umpire within 15 days of the determination that an umpire was needed, the insured could request that a court in the county in which the named insured resided select an umpire. The appraisers and umpire would be required to determine the amount of loss within 30 days after the umpire was selected. The determination agreed to by both appraisers or by one appraiser and the umpire would be binding on both parties.

Each party would be responsible for its own appraiser's fees and expenses. If, by the end of the appraisal process, the amount of loss was determined to be over 10 percent greater than the insurer's last offer, the insurer would be required to refund the insured's reasonable out-of-pocket appraiser's fees and expenses. If the amount was over 10 percent less than the insurer's last offer, the insured would pay for the insurer's appraisal fees and expenses. All other appraisal expenses, including umpire expenses, would be shared evenly between the parties.

Any insurer and a named insured would not waive any rights under the policy that was the subject of the appraisal demand.

The bill would take effect September 1, 2023, and would apply only to an insurance policy on or after January 1, 2024.