

BILL ANALYSIS

Senate Research Center
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S.B. 851
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Property and casualty insurers in Texas incurred a severe increase in claims following Hurricanes Rita and Ike in 2008. According to numerous reports, damages are estimated to have reached tens of billions of dollars and Texas courts have been inundated with lawsuits arising from property claims. Many of those suits have been filed without regard to whether a claim was properly handled or promptly and fairly paid.

Under current law, the traditional statute of limitations in Texas for a contract dispute is four years from the accrual of a cause of action, while the statute of limitations for bad faith is two years. The cause of action accrues on the date the insurer denies the claim under the policy. While most policies contain contractual limitations, recent Texas court rulings suggest that current limitations are not easily determined.

S.B. 851 creates a new section in Chapter 2301 (Policy Forms), Insurance Code, authorizing a residential or commercial property insurer to provide a contractual limitations period for filing suit on a first-party claim that may not end before the earlier of two years from the date the insurer denies the claim or three years from the date of the loss that is the subject of the claim. S.B. 851 also permits the insurer to require that a claim be filed not later than one year after the date of the loss that is the subject of the claim.

As proposed, S.B. 851 amends current law relating to a claim filing period and contractual limitations period in certain property insurance policies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 2301, Insurance Code, by adding Section 2301.011, as follows:

Sec. 2301.011. CONTRACTUAL LIMITATIONS PERIOD AND CLAIM FILING PERIOD IN CERTAIN RESIDENTIAL OR COMMERCIAL PROPERTY INSURANCE FORMS. (a) Authorizes a policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer or adopted by the Texas Department of Insurance under this subchapter to provide for a contractual limitations period for filing suit on a first-party claim under the policy. Prohibits the contractual limitations period from ending before the earlier of:

(1) two years from the date the insurer wholly or partly denies the claim;
or

(2) three years from the date of the loss that is the subject of the claim.

(b) Authorizes a policy or endorsement described by Subsection (a) to contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim.

(c) Provides that a contractual provision contrary to Subsection (a) is void. Provides that this subsection does not affect the validity of other provisions of a contract that are authorized to be given effect without the voided provision to the extent those provisions are severable.

SECTION 2. Amends Section 16.070, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a person, except as provided by Subsections (b) (restricting the application of this section to certain consideration having an aggregate value of less than \$500,000) and (c), rather than as provided by Subsection (b), from entering a stipulation, contract, or agreement that purports to limit the time in which to bring suit on the stipulation, contract, or agreement to a period shorter than two years. Provides that a stipulation, contract, or agreement that establishes a limitations period that is shorter than two years is void in this state.

(c) Provides that this section does not apply to a residential or commercial property insurance policy that complies with Section 2301.011, Insurance Code.

SECTION 3. Makes application of Section 2301.011, Insurance Code, as added by this Act, prospective to January 1, 2014.

SECTION 4. Effective date: September 1, 2013.