

BILL ANALYSIS

Senate Research Center

H.B. 3787
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Business & Commerce
5/20/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties observe that in recent years a trend has emerged in property insurance whereby some claimants file claims long after the date of the loss. Often, years pass between the time of alleged property damage to a residence or business and the time the insurer is first made aware of a claim. Delays in reporting create challenges for investigating and resolving claims. While policies typically require timely reporting of a claim, courts have held that an insurer must show clear prejudice due to the late reporting, and uncertainty exists as to what legally qualifies as prejudice in the various state and federal courts. The parties assert that courts are viewing prejudice inconsistently and that certainty is needed for both claimants and insurers. H.B. 3787 seeks to address this issue.

H.B. 3787 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, notwithstanding Section 16.070 (Contractual Limitations Period), Civil Practice and Remedies Code, 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 accepts or rejects the claim if the insurer has notified the insured by certified mail, return receipt requested, that the insurer has accepted or rejected the claim and has notified the insured in writing that the insured must file suit on the claim within two years of the date the insurer accepted or rejected the claim; or

(2) three years from the date that the insured discovered or, by the exercise of reasonable diligence, should have discovered that the insurer accepted or rejected the claim.

(b) Authorizes a policy or endorsement described by Subsection (a) to also contain a provision requiring that a claim be filed with the insurer not later than two years after the date that the insured discovered or, by the exercise of reasonable diligence, should have discovered the loss that is the subject of the claim.

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

(d) Requires an insurer using a policy form or endorsement form in this state that includes a provision described by Subsection (a) or (b), at the time the policy or endorsement is issued or renewed, to disclose in writing to an applicant or insured the contractual limitations or claims filing period, as applicable, in the policy or endorsement.

SECTION 2. Provides that Section 2301.011, Insurance Code, as added by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2016. Makes application of this Act prospective to January 1, 2016.

SECTION 3. Effective date: September 1, 2015.