

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1437
By: Clardy et al. (Schwertner)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The use of appraisal in insurance policies is an important means for the policyholder and insurer to resolve a dispute over the amount of loss without going to court to settle the conflict. Appraisal in personal auto insurance is and has been the status quo. However, starting in 2015, one of the largest personal auto insurance carriers successfully filed and removed the appraisal process on partial vehicle loss. Without legislative action, Texas regulators will lack justification to continue rejecting insurance policies that seek to remove the appraisal process. The Texas Department of Insurance and the Office of Public Insurance Counsel both made legislative recommendations to address the right to appraisal processes in policies.

H.B. 1437 requires a prescriptive appraisal procedure to be included in all personal auto insurance policies and requires that at the end of the appraisal process, if the insurance carrier's last offer was 10 percent less than the final loss amount, then the insurance carrier is responsible for paying for the insured's appraisal costs.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1437 amends current law relating to an appraisal process for disputed losses under personal automobile or residential property insurance policies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1813.002, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 10, Insurance Code, by adding Chapter 1813, as follows:

CHAPTER 1813. APPRAISAL OF DISPUTED LOSSES

Sec. 1813.001. APPLICABILITY OF CHAPTER. (a) Provides that this chapter applies only to a personal automobile or residential property insurance policy delivered, issued for delivery, or renewed in this state by an insurer, including:

- (1) a capital stock insurance company;
- (2) a mutual insurance company;
- (3) a county mutual insurance company;
- (4) a Lloyd's plan;
- (5) a reciprocal or interinsurance exchange;
- (6) a farm mutual insurance company;

(7) an eligible surplus lines insurer if this state is the insured's home state as defined by Section 981.002 (Definitions); and

(8) the FAIR Plan Association.

(b) Provides that this chapter does not apply to:

(1) an insurance policy delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association; or

(2) a commercial insurance policy.

Sec. 1813.002. RULES. Authorizes the commissioner of insurance to adopt rules necessary to implement this chapter.

Sec. 1813.003. REQUIRED POLICY PROVISION: APPRAISAL PROCESS. (a) Requires that an insurance policy described by Section 1813.001(a) contain an appraisal provision that complies with this chapter.

(b) Provides that the appraisal provision required by this chapter is intended to provide a type of dispute resolution process solely to determine the amount of loss when that amount is in dispute between the policyholder and the insurer.

Sec. 1813.004. EFFECT OF APPRAISAL. (a) Provides that an appraisal under the provision required by this chapter does not affect any applicable policy terms.

(b) Provides that the amount of loss determined by an appraisal under this chapter, except for fraud or material mistake relevant to the appraisal, is binding as to the policyholder and the insurer.

SECTION 2. Makes application of Chapter 1813, Insurance Code, as added by this Act, prospective to January 1, 2024.

SECTION 3. Effective date: September 1, 2023.