

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1268  
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Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

During the 86th Regular Legislative Session, H.B. 2102 was passed to avoid insurance fraud by unscrupulous contractors, which allows an insurance carrier to hold the last check of a claim until they receive proof that the deductible on the claim was paid. Since the law went into effect, insurance companies created a loophole that allows the insurance company to waive the deductible on a claim if the claimant used the insurance company's preferred roofing contractor. This loophole has created monopolies and has driven down competition between small and large roofing companies.

S.B. 1268 seeks to eliminate anti-competitive behavior by prohibiting insurers from waiving a policyholder's deductible in exchange for the use of a preferred or recommended contractor. S.B. 1268 would amend current law to make this a requirement by all insurance carriers, and by doing so, every single roofing contractor—big or small—will be able to fairly compete on price for any job. S.B. 1268 would amend the Business and Commerce Code to remove references to a person who is providing a good or service paid for by insurance proceeds obtaining consent from an insurer with respect to engaging in certain prohibited conduct that assists an insured in any manner with avoiding monetary payment of a required insurance deductible for a property insurance claim.

As proposed, S.B. 1268 amends current law relating to the payment of insurance deductibles for property insurance claims.

### **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 Section 27.02(c), Business and Commerce Code, as follows:

(c) Deletes existing text providing that a person who sells goods or services commits an offense if the person advertises or promises to provide a good or service to an insured under a property insurance policy in a transaction in which the person selling the good or service will, without the insurer's consent, perform certain actions, or if the person 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 performs certain actions.

SECTION 2. Amends Section 707.004, Insurance Code, as follows:

Sec. 707.004. New heading: PAYMENT OF DEDUCTIBLE. (a) Creates this subsection from existing text. Requires, rather than 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.

(b) Prohibits an insurer waiving a deductible owed by a policyholder under a property insurance policy for any reason from requiring as a condition the policyholder's use of the insurer's preferred or recommended contractor for the claim subject to the deductible.

SECTION 3. Makes application of Section 707.004, Insurance Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2023.