

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1268
By: Johnson
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 86th Legislature, Regular Session, passed H.B. 2102, which allows an insurance carrier to hold the last check of a claim until it receives proof that the deductible on the claim was paid, to avoid insurance fraud by unscrupulous contractors. Since the law's passage, insurance companies have not always required the proof of deductible payment which has made the law very difficult to enforce.

S.B. 1268 amends current law to make proof of payment a requirement, which would make it more difficult for contractors to engage in illegal activity and give more evidence to prosecute contractors breaking the law. Contractors who are breaking the law often reuse many components of existing roofs, and purchase factory-second supplies, unknown by the homeowner.

S.B. 1268 would also prohibit carriers from waiving a policyholder's deductible in exchange for the use of a preferred or recommended contractor. The practice of steering business to a select few would result in a consolidation in the contractor market, reducing choice and increasing prices for homeowners.

However, it is important to provide flexibility to carriers to make exceptions for homeowners who cannot afford to pay their deductibles. C.S.S.B. 1268 would allow insurance companies to waive deductibles for homeowners who cannot afford to pay. This does not provide a venue, however, for insurance companies to use preferred contractors as a prerequisite to waive the deductible.

C.S.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. Provides that this subsection does not prohibit an insurer from waiving any deductible amount.

(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.