

By: Jetton

H.B. No. 597

Substitute the following for H.B. No. 597:

By: Oliverson

C.S.H.B. No. 597

A BILL TO BE ENTITLED

AN ACT

relating to an appraisal procedure for disputed losses under certain property and casualty insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 10, Insurance Code, is amended by adding Chapter 1813 to read as follows:

CHAPTER 1813. APPRAISAL PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1813.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to an insurer writing a property or casualty insurance policy, including the FAIR Plan Association, the Texas Automobile Insurance Plan Association, a Lloyd's plan, a reciprocal or interinsurance exchange, a farm mutual insurance company, and a county mutual insurance company.

(b) This chapter does not apply to the Texas Windstorm Insurance Association.

Sec. 1813.002. RULES. The commissioner may adopt rules necessary to implement this chapter.

Sec. 1813.003. REQUIRED POLICY PROVISION: APPRAISAL PROCEDURE. An insurance policy described by Section 1813.001 must contain an appraisal procedure for first-party property damage claims that complies with this chapter.

SUBCHAPTER B. APPRAISAL PROCEDURES

Sec. 1813.051. APPRAISAL DEMAND. (a) If the policyholder

1 and insurer fail to agree to the amount of a loss covered by the
2 policy, the policyholder or insurer may provide a written demand
3 for an appraisal to the other party not later than the 180th day
4 after the date the policyholder receives the initial offer from the
5 insurer.

6 (b) The insurer must include written notification of the
7 180-day deadline to demand appraisal in the insurer's initial offer
8 to the policyholder.

9 (c) The policyholder and the insurer may agree in writing
10 not later than the 20th day after the date on which a demand for
11 appraisal is provided to waive any deadlines imposed by this
12 subchapter.

13 Sec. 1813.052. SELECTION OF APPRAISERS. Not later than the
14 20th day after the date an appraisal demand is provided under
15 Section 1813.051, the policyholder and insurer shall each:

16 (1) select a disinterested and competent appraiser;
17 and

18 (2) provide written notice to the other party of the
19 appraiser's identity.

20 Sec. 1813.053. APPRAISAL OF LOSS BY APPRAISERS; SELECTION
21 OF UMPIRE. (a) The appraisers shall appraise the loss that is the
22 subject of the appraisal not later than the 90th day after the date
23 both the policyholder and insurer have complied with Section
24 1813.052.

25 (b) The policyholder and insurer by agreement may twice
26 extend the deadline described by Subsection (a) for a period not to
27 exceed 60 days each time.

1 (c) If the appraisers agree on the amount of the loss:

2 (1) the appraisers shall provide written notice of the
3 agreement to the policyholder and insurer; and

4 (2) the agreed amount is set as the amount of the loss.

5 (d) If the appraisers fail to agree on the amount of the
6 loss, the appraisers shall select a competent and impartial umpire.

7 If the appraisers do not agree on an umpire before the 20th day
8 after the deadline for the appraisers to determine the amount of the
9 loss under this section, a judge of a court in the county in which
10 the policyholder resides or where the property is located shall
11 select the umpire on the request of the policyholder or insurer. The
12 policyholder or insurer shall provide at least 10 days' notice of
13 the request to the other party before the request is submitted to
14 the court.

15 (e) After the umpire is selected under Subsection (d), the
16 appraisers shall provide written notice to the umpire that
17 includes:

18 (1) the amount each appraiser sets for the loss; and

19 (2) any supporting documentation.

20 Sec. 1813.054. APPRAISAL DETERMINATION. (a) The umpire
21 shall present a draft award to both appraisers not later than the
22 30th day after the date the umpire receives the notice described by
23 Section 1813.053(e) from each appraiser. The umpire shall set the
24 amount of loss by agreement of either appraiser with the umpire's
25 draft award.

26 (b) If neither appraiser agrees to the umpire's draft award
27 on or before the 15th day after the date on which the appraisers are

1 presented the draft award, the umpire shall, not later than the 15th
2 day after the date of that deadline, revise the award in an attempt
3 to reach an agreement with either appraiser.

4 (c) The umpire shall continue revising the award every 15
5 days until an agreement is reached with at least one of the
6 appraisers.

7 (d) The umpire may not remove or reduce any items to which
8 both appraisers previously agreed.

9 (e) By agreement, the policyholder and insurer may extend
10 the deadline described by Subsection (a) for a period not to exceed
11 60 days.

12 (f) On reaching an agreement on the amount of the loss as
13 described by this section, the umpire shall provide a written
14 determination to the policyholder and insurer that:

15 (1) sets the amount of the loss; and

16 (2) is signed by the umpire and the appraiser with whom
17 the umpire reached the agreement.

18 (g) A determination provided under this section does not
19 prevent either party from pursuing its rights under the policy or
20 law.

21 Sec. 1813.055. APPRAISAL EXPENSES. The policyholder and
22 insurer shall equally divide and pay the umpire's expenses, as
23 applicable, and all other appraisal expenses.

24 Sec. 1813.056. EFFECT OF APPRAISAL. (a) The appraisal does
25 not affect any applicable policy terms, including deductibles.

26 (b) The appraisal decision on the amount of loss is binding,
27 and the use of the appraisal procedure is not a condition precedent

1 to bringing an action for a violation of this code, for a breach of
2 contract, or for any other common-law or statutory remedy.

3 SECTION 2. Chapter 1813, Insurance Code, as added by this
4 Act, applies only to an insurance policy delivered, issued for
5 delivery, or renewed on or after January 1, 2024.

6 SECTION 3. This Act takes effect September 1, 2023.