

By: Clardy

H.B. No. 1437

Substitute the following for H.B. No. 1437:

By: Oliverson

C.S.H.B. No. 1437

A BILL TO BE ENTITLED

AN ACT

relating to an appraisal procedure for disputed losses under personal automobile insurance policies.

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

SECTION 1. Chapter 1952, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. APPRAISAL PROCEDURES

Sec. 1952.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insurer writing personal automobile insurance in this state, including an insurance company, corporation, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, association, county mutual insurance company, Lloyd's plan, and any other insurer.

Sec. 1952.402. REQUIRED POLICY PROVISION: APPRAISAL PROCEDURE. A personal automobile insurance policy must contain an appraisal procedure that complies with this subchapter.

Sec. 1952.403. APPRAISAL DEMAND; APPOINTMENT OF APPRAISERS. (a) An insurer or the named insured may demand an appraisal not later than the 90th day after the insurer accepts liability and issues the insurer's undisputed liability offer.

(b) Each party shall appoint an unbiased appraiser and notify the other party of that appraiser's identity not later than the 15th day after the date an appraisal is demanded.

Sec. 1952.404. DETERMINATION OF LOSS. (a) The appraisers

1 appointed by the parties shall determine the amount of loss.

2 (b) If the appraisers fail to agree on the amount of loss
3 after the 30th day after the date all appraisers are appointed, the
4 appraisers shall select an unbiased umpire. The appraisers and
5 umpire shall determine the amount of loss not later than the 30th
6 day after the date the umpire is selected.

7 (c) The determination of the amount of loss agreed to by
8 both appraisers or by one appraiser and the umpire is binding on
9 both parties.

10 Sec. 1952.405. COURT SELECTION OF UMPIRE. If the two
11 appraisers are unable to agree on an umpire on or before the 15th
12 day after the date the appraisers determine an umpire is needed, the
13 insurer or the named insured may request that a court in the county
14 in which the named insured resides select the umpire.

15 Sec. 1952.406. APPRAISAL FEES AND EXPENSES. (a) Each party
16 is responsible for its own appraiser's fees and expenses.

17 (b) If at the end of the appraisal process the amount of loss
18 is determined to be more than 10 percent greater than the amount of
19 the insurer's last offer, the insurer shall refund the named
20 insured's reasonable out-of-pocket expenses for the insured's
21 appraiser's fees and expenses.

22 (c) If at the end of the appraisal process the appraisal
23 award is more than 10 percent less than the amount the insurer last
24 offered, the named insured shall pay the insurer's appraiser's
25 reasonable fees and expenses.

26 (d) All other appraisal expenses, including umpire
27 expenses, are shared evenly between the parties.

1 Sec. 1952.407. NO RIGHTS WAIVED. An insurer and a named
2 insured do not waive any rights under the policy that is the subject
3 of the appraisal by demanding an appraisal.

4 SECTION 2. The change in law made by this Act applies only
5 to an insurance policy that is delivered, issued for delivery, or
6 renewed on or after January 1, 2024.

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