

By: Perez

H.B. No. 4194

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:

(1) the Texas Windstorm Insurance Association; or

(2) an area for which:

(A) either:

(i) a state of disaster has been declared under Section 418.014, Government Code; or

(ii) a local state of disaster has been declared under Section 418.108, Government Code; and

(B) the disaster is caused by a wildfire, flood, hurricane, or tornado or a wind, ice, or snow storm.

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

3 Sec. 1813.003. REQUIRED POLICY PROVISION: APPRAISAL
4 PROCEDURE. An insurance policy described by Section 1813.001 must
5 contain an appraisal procedure that complies with this chapter.

6 SUBCHAPTER B. APPRAISAL PROCEDURES

7 Sec. 1813.051. APPRAISAL DEMAND. If the policyholder and
8 insurer fail to agree to the amount of a loss covered by the policy,
9 the policyholder or insurer may provide a written demand for an
10 appraisal to the other party.

11 Sec. 1813.052. SELECTION OF APPRAISERS. Not later than the
12 20th day after the date an appraisal demand is provided under
13 Section 1813.051, the policyholder and insurer shall each:

14 (1) select a competent appraiser; and

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

17 Sec. 1813.053. APPRAISAL OF LOSS BY APPRAISERS; SELECTION
18 OF UMPIRE. (a) The appraisers shall appraise the loss that is the
19 subject of the appraisal not later than the 30th day after the date
20 both the policyholder and insurer have complied with Section
21 1813.052.

22 (b) The appraisers may extend the deadline described by
23 Subsection (a) for a period not to exceed 60 days on agreement by
24 the appraisers, policyholder, and insurer.

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

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

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

2 (d) If the appraisers fail to agree on the amount of the
3 loss, the appraisers shall select a competent and impartial umpire.
4 If the appraisers do not agree on an umpire before the 20th day
5 after the deadline for the appraisers to determine the amount of the
6 loss under this section, a judge of a court in the county in which
7 the policyholder resides shall select the umpire on the request of
8 the policyholder or insurer.

9 (e) After the umpire is selected under Subsection (d), the
10 appraisers shall provide written notice to the umpire that
11 includes:

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

13 (2) any supporting documentation.

14 Sec. 1813.054. APPRAISAL SELECTION BY UMPIRE. (a) The
15 umpire shall determine the amount of the loss not later than the
16 30th day after the date the umpire receives the notice described by
17 Section 1813.053(e) by selecting one of the amounts submitted to
18 the umpire.

19 (b) The umpire may extend the deadline described by
20 Subsection (a) for a period not to exceed 60 days on agreement by
21 the appraisers, policyholder, and insurer.

22 (c) On deciding on the amount of the loss, the umpire shall
23 provide a written determination to the policyholder and insurer
24 that:

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

26 (2) is signed by the umpire and the appraiser whose
27 appraisal amount is selected by the umpire.

1 (d) A determination provided under Subsection (c) does not
2 prevent either party from pursuing its rights under the policy or
3 law.

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

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

9 (b) The actual cash value, amount of loss, or cost of repair
10 or replacement under the policy determined by the appraisal
11 procedure under this chapter is binding as to the policyholder and
12 the insurer. The use of the procedure is not a condition precedent
13 to bringing an action for a violation of this code, for a breach of
14 contract, or for any other common-law or statutory remedy.

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

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