

1-1 By: Johnson, Perry S.B. No. 1268
1-2 (In the Senate - Filed February 27, 2023; March 9, 2023,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 April 27, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 1; April 27, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1268 By: Johnson

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the payment of insurance deductibles for property
1-24 insurance claims.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 27.02(c), Business & Commerce Code, is
1-27 amended to read as follows:

1-28 (c) A person who sells goods or services commits an offense
1-29 if the person:

1-30 (1) advertises or promises to provide a good or
1-31 service to an insured under a property insurance policy in a
1-32 transaction in which:

1-33 (A) the good or service will be paid for by the
1-34 insured from the proceeds of a property insurance claim; and

1-35 (B) the person selling the good or service will ~~without the insurer's consent~~;

1-36 ~~without the insurer's consent~~:
1-37 (i) pay, waive, absorb, or otherwise
1-38 decline to charge or collect the amount of the insured's
1-39 deductible;

1-40 (ii) provide a rebate or credit in
1-41 connection with the sale of the good or service that will offset all
1-42 or part of the amount paid by the insured as a deductible; or

1-43 (iii) in any other manner assist the
1-44 insured in avoiding monetary payment of the required insurance
1-45 deductible; or

1-46 (2) provides a good or service to an insured under a
1-47 property insurance policy knowing that the insured will pay for the
1-48 good or service with the proceeds of a claim under the policy and ~~without the insurer's consent~~;

1-49 ~~without the insurer's consent~~:
1-50 (A) pays, waives, absorbs, or otherwise declines
1-51 to charge or collect the amount of the insured's deductible;

1-52 (B) provides a rebate or credit in connection
1-53 with the sale of the good or service that offsets all or part of the
1-54 amount paid by the insured as a deductible; or

1-55 (C) in any other manner assists the insured in
1-56 avoiding monetary payment of the required insurance deductible.

1-57 SECTION 2. Section 707.004, Insurance Code, is amended to
1-58 read as follows:

1-59 Sec. 707.004. ~~REASONABLE PROOF OF~~ PAYMENT OF DEDUCTIBLE.

1-60 (a) An insurer that issues a property insurance policy with

2-1 replacement cost coverage shall [~~may~~] refuse to pay a claim for
2-2 withheld recoverable depreciation or a replacement cost holdback
2-3 under the policy until the insurer receives reasonable proof of
2-4 payment by the policyholder of any deductible applicable to the
2-5 claim. Reasonable proof of payment includes a canceled check,
2-6 money order receipt, credit card statement, or copy of an executed
2-7 installment plan contract or other financing arrangement that
2-8 requires full payment of the deductible over time. This subsection
2-9 does not prohibit an insurer from waiving any deductible amount.

2-10 (b) An insurer waiving a deductible owed by a policyholder
2-11 under a property insurance policy for any reason may not require as
2-12 a condition the policyholder's use of the insurer's preferred or
2-13 recommended contractor for the claim subject to the deductible.

2-14 SECTION 3. Section 707.004, Insurance Code, as amended by
2-15 this Act, applies only to an insurance policy delivered, issued for
2-16 delivery, or renewed on or after the effective date of this Act. A
2-17 policy delivered, issued for delivery, or renewed before the
2-18 effective date of this Act is governed by the law as it existed
2-19 immediately before the effective date of this Act, and that law is
2-20 continued in effect for that purpose.

2-21 SECTION 4. This Act takes effect September 1, 2023.

2-22 * * * * *