

BILL ANALYSIS

C.S.H.B. 1368
By: Hancock
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Property insurance is designed to protect a policyholder from damages arising from unexpected occurrences and natural disasters. Unfortunately, a small percentage of Texas property insurance policyholders abuse the claims process and consume a disproportionate amount of claims payments in comparison to the overall majority of policyholders.

C.S.H.B. 1368 seeks to discourage such abuse and help an insurer maintain financial sustainability for future disasters by permitting an insurance company each year to nonrenew up to two percent of the total number of certain policies written in Texas by the insurer in the preceding year and up to two percent of the total number of certain policies written in any one county.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1368 amends the Insurance Code to remove a claim resulting from a loss caused by natural causes from the claims to which provisions of law relating to the renewal of a standard fire, homeowners, or farm or ranch owners insurance policy do not apply. The bill removes language making the authorization for an insurer who issues such an insurance policy to assess a premium surcharge conditional on the insured having filed two or more claims in the preceding three policy years. The bill authorizes an insurer, at the time a policy is renewed, to require an increase in any applicable deductible under the policy. The bill reduces from three to two the minimum number of claims that an insured has filed in any three-year period for an insurer to be authorized to refuse to renew an insurance policy.

C.S.H.B. 1368 limits the total number of policies that an insurer is authorized to refuse in a calendar year to renew, for the entire state, to two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in Texas in the immediately preceding calendar year and, for each county, to two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in the county in the immediately preceding calendar year. The bill authorizes an insurer, in each calendar year, to refuse to renew one policy in each county in which the insurer writes standard fire, homeowners, or farm or ranch owners insurance policies if the two percent limit is an amount that is less than one.

C.S.H.B. 1368 authorizes an insurer that issues a standard fire, homeowners, or farm or ranch owners insurance policy, when any insured files a claim, to notify the insured that the insurer may refuse to renew the policy if the insured files a second claim during a three-year period, rather than to notify an insured who has filed two claims in a period of less than three years of such a potential refusal as a result of the insured's filing of a third claim during that period. The

bill requires such notice to be provided by electronic means or by mail. The bill removes a provision of law prohibiting an insurer from refusing to renew the policy because of claims if the insurer does not notify the insured. The bill removes a provision of law setting out requirements for the notice form.

C.S.H.B. 1368 prohibits provisions of law relating to the renewal of certain policies from being construed to limit an insurer's right to refuse to renew an insurance policy for a reason other than the insured's claim history. The bill requires an insurer, not later than January 31 of each calendar year, to submit a report to the Texas Department of Insurance containing the total number of policies that the insurer refused to renew in Texas and in each county of Texas in the calendar year immediately preceding the year in which the report is submitted.

C.S.H.B. 1368 repeals provisions of law relating to the prohibited discrimination against persons and property due to the filing of a water damage claim under a residential property insurance policy and makes conforming changes to reflect the repeal.

C.S.H.B. 1368 repeals Subchapter H, Chapter 544, Insurance Code.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1368 differs from the original by removing a claim resulting from a loss caused by natural causes from the claims to which provisions of law relating to the renewal of a standard fire, homeowners, or farm or ranch owners insurance policy do not apply, whereas the original retains such a claim.

C.S.H.B. 1368 differs from the original by removing language from existing law making the authorization for an insurer who issues such an insurance policy to assess a premium surcharge at the time an insurance policy is renewed conditional on the insured having filed two or more claims in the preceding three policy years, whereas the original retains that language and authorizes an insurer to assess a premium surcharge at that time if the insured has filed one or more claims in that period. The substitute contains provisions not included in the original authorizing an insurer at the time a policy is renewed to require an increase in any applicable deductible under the policy and reducing the minimum number of claims that an insured has filed for an insurer to be authorized to refuse to renew an insurance policy.

C.S.H.B. 1368 differs from the original by establishing the total number of policies, for the state and for each county, that an insurer may refuse in a calendar year to renew if the insured has filed two or more claims under the policy in any three-year period, whereas the original establishes the same total number of policies that an insurer may refuse in a calendar year to renew for any reason related to the insured's claim history under the policy or an increased risk of hazard on the property insured under the policy.

C.S.H.B. 1368 differs from the original by revising the procedures relating to an insurer notifying an insured that the insurer may refuse to renew the policy based on the number of claims filed in a certain period and removing the notice form requirements, whereas the original makes no such revision or removal. The substitute differs from the original by removing a provision of law prohibiting an insurer from refusing to renew the policy because of claims if the insurer does not notify the insured, whereas the original retains that provision of law.

C.S.H.B. 1368 differs from the original by requiring an insurer to annually submit a report to the Texas Department of Insurance by a certain date containing the total number of policies that the insurer refused to renew in Texas and in each Texas county in the preceding year due to two or

more claims filed by the insured in a three-year period, whereas the original requires that submission by an insured that elects to nonrenew policies and assess surcharges for any reason related to the insured's claim history or an increased hazard risk on the insured property

C.S.H.B. 1368 omits provisions included in the original requiring an insurer that issues a standard fire, homeowners, or farm or ranch owners insurance policy to elect whether the insurer will nonrenew policies and assess a premium surcharge for reasons related to the insured's claim history, increased hazard risk on the insured property, or the insured's filing of three or more claims in a three-year period and setting out procedures relating to such an election. The substitute omits provisions included in the original authorizing an insurer that issues a standard fire, homeowners, or farm or ranch owners insurance policy to refuse to renew an insurance policy for any reason related to the insured's claim history under the policy or an increased risk of hazard on the property insured under the policy and excluding from such authorization a claim that is filed but is not paid or payable under the policy. The substitute omits a provision included in the original providing for the meaning of "premium surcharge."

C.S.H.B. 1368 differs from the original by making the bill's provisions applicable only to an insurance policy that is delivered, issued for delivery, renewed, or subject to nonrenewal on or after the bill's effective date, rather than on or after January 1, 2012, as in the original. The substitute differs from the original in nonsubstantive ways.