

By: Taylor

H.B. No. 2125

A BILL TO BE ENTITLED

AN ACT

relating to dispute resolution for certain property insurance claims; authorizing a fee.

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

SECTION 1. Subtitle A, Title 10, Insurance Code, is amended by adding Chapter 1808 to read as follows:

CHAPTER 1808. CLAIMS SETTLEMENT AND DISPUTE RESOLUTION FOR  
PROPERTY LOSS CLAIMS

Sec. 1808.001. DEFINITION. In this chapter, "claim for property losses" means a request for payment under an insurance policy for damage to or loss of real property or tangible personal property alleged to be covered by the policy.

Sec. 1808.002. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter applies to a claim under an insurance policy that provides insurance coverage against damage to or loss of real property or tangible personal property, including a policy issued by an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock insurance company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write property insurance in this state.

(b) This chapter does not apply to a claim under a policy issued by:

(1) the Texas Windstorm Insurance Association;

(2) the FAIR Plan Association; or

1           (3) the Texas Automobile Insurance Plan Association.

2           Sec. 1808.003. DISPUTE CONCERNING THE AMOUNT OF ACCEPTED  
3 COVERAGE: APPRAISAL REQUIRED. (a) If an insurer accepts coverage  
4 for a property loss claim in full and the insured disputes only the  
5 amount of loss the insurer will pay for the claim, or if the insurer  
6 accepts coverage for a property loss claim in part and the insured  
7 disputes the amount of loss the insurer will pay for the accepted  
8 portion of the claim, the insured may request from the insurer a  
9 detailed summary of the manner in which the insurer determined the  
10 amount of loss the insurer will pay.

11           (b) If an insured disputes the amount of loss the insurer  
12 will pay for a property loss claim or a portion of a property loss  
13 claim, the insured must, before the insured brings an action to  
14 resolve the dispute, demand appraisal in accordance with rules  
15 adopted by the commissioner for purposes of this section. A demand  
16 under this subsection tolls the applicable limitations period for  
17 filing the action until the 60th day after the date on which the  
18 appraisal decision is made.

19           (c) If an insurer demands appraisal under this section:

20                   (1) the appraisal must be conducted as provided by the  
21 commissioner by rule; and

22                   (2) the insured and the insurer are responsible in  
23 equal shares for paying any costs incurred or charged in connection  
24 with the appraisal, including a fee charged under Subsection (d).

25           (d) If an insured demands appraisal under this section and  
26 the appraiser retained by the insured and the appraiser retained by  
27 the insurer are able to agree on an appraisal umpire to participate

1 in the resolution of the dispute, the appraisal umpire is the umpire  
2 chosen by the two appraisers. If the appraiser retained by the  
3 insured and the appraiser retained by the insurer are unable to  
4 agree on an appraisal umpire to participate in the resolution of the  
5 dispute, the commissioner shall select an appraisal umpire from a  
6 roster of qualified umpires maintained by the department. The  
7 department may:

8 (1) require appraisers to register with the department  
9 as a condition of being placed on the roster of umpires; and

10 (2) charge a reasonable registration fee to defray the  
11 cost incurred by the department in maintaining the roster and the  
12 commissioner in selecting an appraisal umpire under this  
13 subsection.

14 Sec. 1808.004. DISPUTE CONCERNING THE AMOUNT OF ACCEPTED  
15 COVERAGE: ATTORNEY'S FEES. An insured that brings an action to  
16 resolve a dispute for which an appraisal is required under Section  
17 1808.003 may not recover attorney's fees in an amount that is  
18 greater than 40 percent of the amount by which the property loss  
19 awarded by the judgment exceeds the property loss awarded by the  
20 appraisal decision.

21 Sec. 1808.005. JUDGMENT INTEREST. Notwithstanding Section  
22 542.060, interest awarded to an insured under that section in  
23 connection with a claim for property losses must be computed using  
24 the postjudgment interest rate determined under Section 304.003,  
25 Finance Code.

26 Sec. 1808.006. EXCLUSIVITY OF REMEDIES FOR PROPERTY LOSS  
27 CLAIM. Notwithstanding Section 541.453 or 542.061 or any other

1 law, an insured may not bring an action in connection with a claim  
2 for property losses to obtain a remedy provided by any statute other  
3 than this code.

4 SECTION 2. Chapter 1808, Insurance Code, as added by this  
5 Act, applies only to a claim under an insurance policy delivered,  
6 issued for delivery, or renewed on or after January 1, 2014. A  
7 claim under an insurance policy delivered, issued for delivery, or  
8 renewed before January 1, 2014, is governed by the law applicable to  
9 the claim immediately before the effective date of this Act, and  
10 that law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2013.