

BILL ANALYSIS

H.B. 3787
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties observe that in recent years a trend has emerged in property insurance whereby some claimants file claims long after the date of the loss. Often, years pass between the time of alleged property damage to a residence or business and the time the insurer is first made aware of a claim. Delays in reporting create challenges for investigating and resolving claims. While policies typically require timely reporting of a claim, courts have held that an insurer must show clear prejudice due to the late reporting, and uncertainty exists as to what legally qualifies as prejudice in the various state and federal courts. The parties assert that courts are viewing prejudice inconsistently and that certainty is needed for both claimants and insurers. In some instances, the lack of a clear deadline for reporting claims has resulted in outside solicitation by certain public adjusters, contractors, and attorneys long after the date of loss, particularly for weather-related catastrophes. The interested parties contend that Texas insureds and insurers need and deserve a clear deadline to help protect against the impacts of this improper solicitation. H.B. 3787 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 3787 amends the Insurance Code to authorize a policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer or adopted by the Texas Department of Insurance (TDI) under applicable state law to provide for a contractual limitations period for filing suit on a first-party claim under the policy. The bill prohibits the contractual limitations period from ending before the earlier of two years from the date the insurer accepts or rejects the claim or three years from the date of the loss that is the subject of the claim. The bill authorizes such a policy or endorsement to also contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim. The bill establishes that a contractual provision contrary to such a contractual limitations period is void but that the voiding of such a provision does not affect the validity of other provisions of a contract that may be given effect without the voided provision to the extent those provisions are severable.

H.B. 3787 requires an insurer using a policy form or endorsement form in Texas that includes a contractual limitations period or claim filing period described by the bill, at the time the policy or endorsement is issued or renewed, to disclose in writing to an applicant or insured the

contractual limitations or claims filing period, as applicable, in the policy or endorsement.

H.B. 3787 applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2016.

EFFECTIVE DATE

September 1, 2015.