

By: Hughes

H.B. No. 3563

A BILL TO BE ENTITLED

AN ACT

relating to settlement practices of insurers and prohibited conduct by insurance adjusters and public insurance adjusters.

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

SECTION 1. Section 541.060 is amended by adding Subsection (a-10) to read as follows:

Sec. 541.060. UNFAIR SETTLEMENT PRACTICES. (a) It is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance to engage in the following unfair settlement practices with respect to a claim by an insured or beneficiary:

(1) misrepresenting to a claimant a material fact or policy provision relating to coverage at issue;

(2) failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of:

(A) a claim with respect to which the insurer's liability has become reasonably clear; or

(B) a claim under one portion of a policy with respect to which the insurer's liability has become reasonably clear to influence the claimant to settle another claim under another portion of the coverage unless payment under one portion of the coverage constitutes evidence of liability under another portion;

(3) failing to promptly provide to a policyholder a

1 reasonable explanation of the basis in the policy, in relation to
2 the facts or applicable law, for the insurer's denial of a claim or
3 offer of a compromise settlement of a claim;

4 (4) failing within a reasonable time to:

5 (A) affirm or deny coverage of a claim to a
6 policyholder; or

7 (B) submit a reservation of rights to a
8 policyholder;

9 (5) refusing, failing, or unreasonably delaying a
10 settlement offer under applicable first-party coverage on the basis
11 that other coverage may be available or that third parties are
12 responsible for the damages suffered, except as may be specifically
13 provided in the policy;

14 (6) undertaking to enforce a full and final release of
15 a claim from a policyholder when only a partial payment has been
16 made, unless the payment is a compromise settlement of a doubtful or
17 disputed claim;

18 (7) refusing to pay a claim without conducting a
19 reasonable investigation with respect to the claim;

20 (8) with respect to a Texas personal automobile
21 insurance policy, delaying or refusing settlement of a claim solely
22 because there is other insurance of a different kind available to
23 satisfy all or part of the loss forming the basis of that claim; or

24 (9) requiring a claimant as a condition of settling a
25 claim to produce the claimant's federal income tax returns for
26 examination or investigation by the person unless:

27 (A) a court orders the claimant to produce those

1 tax returns;

2 (B) the claim involves a fire loss; or

3 (C) the claim involves lost profits or income.

4 (10) altering, or causing to be altered, an inspection
5 report of damages to minimize the payment of a claim or part of a
6 claim.

7 SECTION 2. Section 542.102 is amended to read as follows:

8 Sec. 542.102. REQUEST BY POLICYHOLDER UNDER PROPERTY AND
9 CASUALTY INSURANCE POLICY. (a) On written request of a
10 policyholder, an insurer that writes property and casualty
11 insurance in this state shall provide the policyholder with a list
12 of claims charged against the policy, ~~and~~ payments made on each
13 claim, and information relating to the disposition of each claim
14 filed under the policy. The information must include:

15 (1) details relating to:

16 (A) the amount paid on each claim;

17 (B) settlement of each claim; or

18 (C) judgment on each claim;

19 (3) details as to how the claim, settlement, or
20 judgment is to be paid;

21 (4) details regarding whether a business entity or
22 insurance adjuster altered the report of an engineer or other
23 person employed to furnish technical assistance to a licensed
24 adjuster and explanation of all alterations; and

25 (5) any other information required by rule of the
26 commissioner that the commissioner considers necessary to
27 adequately inform an insured with regard to any claim under a

1 property and casualty insurance policy.

2 SECTION 3. Subchapter F, Chapter 4101, Insurance Code, is
3 amended by adding Section 4101.252 to read as follows:

4 Sec. 4101.252. CERTAIN ALTERATIONS OF TECHNICAL REPORTS
5 PROHIBITED. (a) A business entity or insurance adjuster licensed
6 under this chapter may not alter an inspection report of damages to
7 minimize the payment of a claim or part of a claim.

8 (b) A business entity or insurance adjuster licensed under
9 this chapter may not alter the report of an engineer or other person
10 employed to furnish technical assistance to a licensed adjuster
11 without providing written notice and explanation of all alterations
12 to the insured or claimant.

13 (c) The commissioner shall adopt rules necessary to
14 implement and enforce this section.

15 SECTION 4. Subchapter D, Chapter 4102, Insurance Code, is
16 amended by adding Section 4102.164 to read as follows:

17 Sec. 4102.164. CERTAIN ALTERATIONS OF TECHNICAL REPORTS
18 PROHIBITED. (a) A business entity or insurance adjuster licensed
19 under this chapter may not alter an inspection report of damages to
20 minimize the payment of a claim or part of a claim.

21 (b) A business entity or insurance adjuster licensed under
22 this chapter may not alter the report of an engineer or other person
23 employed to furnish technical assistance to a licensed adjuster
24 without providing written notice and explanation of all alterations
25 to the insured or claimant.

26 (c) The commissioner shall adopt rules necessary to
27 implement and enforce this section.

1 SECTION 5. The change in law made by this Act applies only
2 to a cause of action that accrues on or after the effective date of
3 this Act. A cause of action that accrues before the effective date
4 of this Act is governed by the law applicable to the cause of action
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 SECTION 6. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2015.