

## **BILL ANALYSIS**

C.S.H.B. 3579  
By: Phillips  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties are concerned that the complexity of reporting requirements contained in certain residential property insurance policies may prevent a policy holder from fully complying with the terms of the policy, which may result in a denial of coverage. C.S.H.B. 3579 seeks to reform the law regarding coverage for water damage claims for residential property insurance policies.

### **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 rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 3579 amends the Insurance Code to prohibit an insurer that issues a residential property insurance policy, including an endorsement, that provides coverage for a loss resulting from water damage from restricting coverage or denying a claim under the policy based on the duration of the seepage or leakage of water if the insured demonstrates, in good faith, that the water damage could not have reasonably been discovered earlier and provides prompt notice after the loss was discovered. The bill requires an insurer that requires a policy holder to provide notice of a loss resulting from water damage within a certain time period to provide a written disclosure to the policyholder that clearly describes the time period within which the policy holder is required to submit a water damage claim. The bill requires the insurer to include the disclosure on the policy's declarations page or a separate disclosure page provided to the policyholder with the declarations page. The bill authorizes the commissioner of insurance to adopt rules as necessary to implement the bill's provisions. The bill's provisions expressly do not affect a policy provision requiring an insured to promptly take action to mitigate a loss or further damage after the insured discovers the water damage. The bill applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2018.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3579 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Subchapter A, Chapter 2002, Insurance Code is amended to add the following section:

Sec. 2002.007. Coverage for Residential Property Water Damage Claims.

(a) If a residential property policy, including an endorsement, provides coverage for loss resulting from continuous or repeated seepage or leakage of water or steam, the policy must not restrict coverage, and the insurer must not deny a claim, based on the duration of the seepage or leakage if an insured notifies the insurer no later than 30 days after the loss was discovered or should have been discovered.

(b) The insurer must provide a written disclosure to the policyholder that clearly describes the 30-day notice requirement in subsection (a) of this section. The insurer must include the disclosure on the declarations page, or a separate disclosure page provided to the policyholder with the declarations page.

(c) This section applies to an insurer as defined in Section 544.352(2), writing residential property insurance as defined in Section 544.352(3) in this state.

(d) The commissioner may adopt rules as necessary to implement this section.

SECTION 2. Section 2002.007, Insurance Code, as amended by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2018. A policy delivered, issued for delivery, or renewed before January 1, 2018, is governed by the law as it existed immediately before the effective date of this

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 2002, Insurance Code, is amended by adding Section 2002.007 to read as follows:

Sec. 2002.007. COVERAGE FOR WATER DAMAGE CLAIMS. (a) In this section, "insurer" and "residential property insurance" have the meanings assigned by Section 544.352.

(b) An insurer that issues a residential property insurance policy, including an endorsement, that provides coverage for a loss resulting from water damage may not restrict coverage or deny a claim under the policy based on the duration of the seepage or leakage of water if the insured:

(1) demonstrates, in good faith, that the water damage could not have reasonably been discovered earlier; and

(2) provides prompt notice after the loss was discovered.

(c) Nothing in this section affects a policy provision requiring an insured to promptly take action to mitigate a loss or further damage after the insured discovers the water damage.

(d) If an insurer requires a policyholder to provide notice of a loss resulting from water damage within a certain time period, the insurer must provide a written disclosure to the policyholder that clearly describes the time period within which the policyholder must submit a water damage claim. The insurer must include the disclosure on the policy's declarations page or a separate disclosure page provided to the policyholder with the declarations page.

(e) The commissioner may adopt rules as necessary to implement this section.

SECTION 2. Substantially the same as introduced version.

Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect January 1, 2018.

SECTION 3. This Act takes effect September 1, 2017.