

BILL ANALYSIS

C.S.H.B. 4223
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that, with regard to certain contract disputes, a party who does not favor how litigation is progressing may invoke the contractual appraisal process to halt and frustrate the litigation, adding more cost and delay. It has been suggested that this is antithetical to the prompt resolution of disputes and wastes judicial resources. C.S.H.B. 4223 seeks to end this strategic misuse of appraisal by requiring parties interested in invoking the process to do so within a prescribed time frame and by making clarifications with regard to the purpose of the appraisal process.

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

C.S.H.B. 4223 amends the Civil Practice and Remedies Code to prohibit a party that receives written notice of a contract dispute that may be subject to a contractual appraisal process meant to determine the amount of a loss covered by the contract from invoking that appraisal process after the 60th day after the date the party receives the notice. The bill establishes the following:

- that a party that may be liable under a contract for a loss the amount of which may be determined through a contractual appraisal process is required to promptly investigate and pay any obligation under the contract, notwithstanding the existence of the appraisal provision in the contract;
- that a contractual appraisal process does not serve any purpose other than the resolution of a dispute regarding the amount of a covered loss that must be paid under the contract; and
- that the appraisal process does not absolve a party from an extra-contractual obligation, including a statutory or common law obligation to timely investigate and pay a contractual obligation in good faith, and does not exempt a party from the prompt payment of penalties or attorney's fees ordinarily recoverable when a party fails to adequately and timely pay a covered loss.

C.S.H.B. 4223 establishes that its provisions control over any other law to the extent of a conflict but does not apply to disputes concerning amounts of accepted coverage in a claim involving the Texas Windstorm Insurance Association.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4223 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute specifies that the appraisal process does not absolve a party from an extra-contractual obligation.

The substitute includes a provision exempting certain disputes relating to accepted coverage in a claim involving the Texas Windstorm Insurance Association from the bill's provisions.

The substitute does not include a provision relating to recoverable amounts for a party that prevails in a contractual appraisal process.