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By:  Capriglione, et al. H.B. No. 2102

A BILL TO BE ENTITLED

AN ACT

relating to the payment of insurance deductibles related to property insurance policies; creating criminal offenses.

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

SECTION 1.  Subtitle F, Title 5, Insurance Code, is amended by adding Chapter 707 to read as follows:

CHAPTER 707. PAYMENT OF INSURANCE DEDUCTIBLE

Sec. 707.001.  DEFINITIONS. In this chapter:

(1)  "Person" means an individual, corporation, association, partnership, limited liability company, or other legal entity.

(2)  "Property insurance" means insurance that provides first-party coverage for loss of or damage to real property.

Sec. 707.002.  PAYMENT OF DEDUCTIBLE REQUIRED. A person insured under a property insurance policy shall pay any deductible applicable to a first-party claim made under the policy.

Sec. 707.003.  CONSUMER EDUCATION. The department, in coordination with other state agencies and stakeholders as necessary, shall develop and implement an education program related to the payment of property insurance deductibles. The program must:

(1)  provide reasonable methods to educate insurance consumers and providers of goods or services that are regularly paid for from proceeds of property insurance claims; and

(2)  include information regarding:

(A)  the requirements of this chapter and Section 27.02, Business & Commerce Code; and

(B)  the conduct prohibited by Section 27.02, Business & Commerce Code.

Sec. 707.004.  REASONABLE PROOF OF PAYMENT.  An insurer that issues a property insurance policy with replacement cost coverage may refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback under the policy until the insurer receives reasonable proof of payment by the policyholder of any deductible applicable to the claim. Reasonable proof of payment includes a canceled check, money order receipt, credit card statement, or copy of an executed installment plan contract or other financing arrangement that requires full payment of the deductible over time.

Sec. 707.005.  RULEMAKING. The commissioner may adopt rules as necessary to implement this chapter. Section 2001.0045, Government Code, does not apply to rules adopted under this section.

SECTION 2.  Section 27.02, Business & Commerce Code, is amended to read as follows:

Sec. 27.02.  GOODS OR SERVICES PAID FOR BY INSURANCE PROCEEDS: PAYMENT OF DEDUCTIBLE REQUIRED [~~CERTAIN INSURANCE CLAIMS FOR EXCESSIVE CHARGES~~]. (a) In this section, "property insurance" has the meaning assigned by Section 707.001, Insurance Code.

(b)  A contract to provide a good or service that is reasonably expected to be paid wholly or partly from the proceeds of a claim under a property insurance policy and that has a contract price of $1,000 or more must contain the following notice in at least 12-point boldfaced type: "Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a person or business paid wholly or partly from proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible."

(c)  A person who sells goods or services commits an offense if the person:

(1)  advertises or promises to provide a good or service to an insured under a property insurance policy in a transaction in which:

(A)  the good or service will be paid for by the insured from the proceeds of a property insurance claim; and

(B)  the person selling the good or service will, without the insurer's consent:

(i)  pay, waive, absorb, or otherwise decline to charge or collect the amount of the insured's deductible;

(ii)  provide a rebate or credit in connection with the sale of the good or service that will offset all or part of the amount paid by the insured as a deductible; or

(iii)  in any other manner assist the insured in avoiding monetary payment of the required insurance deductible; or

(2)  provides a good or service to an insured under a property insurance policy knowing that the insured will pay for the good or service with the proceeds of a claim under the policy and, without the insurer's consent:

(A)  pays, waives, absorbs, or otherwise declines to charge or collect the amount of the insured's deductible;

(B)  provides a rebate or credit in connection with the sale of the good or service that offsets all or part of the amount paid by the insured as a deductible; or

(C)  in any other manner assists the insured in avoiding monetary payment of the required insurance deductible.

(d)  A person insured under a property insurance policy commits an offense if the person, in connection with a first-party claim under the policy for loss of or damage to real property, knowingly submits or allows a claim to be submitted in violation of Subsection (c), unless the insured person promptly notifies the insurer of the violation. [~~A person who sells goods or services commits an offense if:~~

[~~(1)  the person advertises or promises to provide the good or service and to pay:~~

[~~(A)  all or part of any applicable insurance deductible; or~~

[~~(B)  a rebate in an amount equal to all or part of any applicable insurance deductible;~~

[~~(2)  the good or service is paid for by the consumer from proceeds of a property or casualty insurance policy; and~~

[~~(3)  the person knowingly charges an amount for the good or service that exceeds the usual and customary charge by the person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by the person to an insurer on behalf of an insured or remitted to an insured by the person as a rebate.~~

[~~(b)  A person who is insured under a property or casualty insurance policy commits an offense if the person:~~

[~~(1)  submits a claim under the policy based on charges that are in violation of Subsection (a) of this section; or~~

[~~(2)  knowingly allows a claim in violation of Subsection (a) of this section to be submitted, unless the person promptly notifies the insurer of the excessive charges.~~]

(e) [~~(c)~~]  An offense under this section is a Class B [~~A~~] misdemeanor.

SECTION 3.  The changes in law made by this Act to Section 27.02, Business & Commerce Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.  Section 27.02(b), Business & Commerce Code, as amended by this Act, applies only to a contract entered into on or after the effective date of this Act.

SECTION 5.  This Act takes effect September 1, 2019.