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By:  Capriglione 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 coverage for loss of or damage to real or personal 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 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 materials regarding:

(A)  the requirements of this chapter; and

(B)  the conduct prohibited by Section 707.006.

Sec. 707.004.  REQUIRED CONTRACT NOTICE. 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 policyholder to fail to pay, or assist the policyholder's failure to pay, the applicable insurance deductible."

Sec. 707.005.  PROOF OF PAYMENT. (a) This section applies to any insurer that issues a policy providing coverage for loss of or damage to real or personal property, including a county mutual insurance company, a farm mutual insurance company, a reciprocal or interinsurance exchange, or a Lloyd's plan.

(b)  An insurer that issues a property insurance policy with replacement cost coverage may refuse to pay a claim for replacement cost under the policy until the insurer receives reasonable proof of payment by the policyholder of any deductible applicable to the claim.

Sec. 707.006.  OFFENSES. (a) 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.

(b)  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 or personal property, knowingly:

(1)  pays for a good or service with proceeds of the claim; and

(2)  without the insurer's consent:

(A)  fails to pay a required insurance deductible in connection with the claim; or

(B)  accepts a rebate or credit in connection with the purchase that offsets all or part of the amount paid by the insured as a deductible.

(c)  An offense under this section is a Class A misdemeanor.

SECTION 2.  Section 27.02, Business & Commerce Code, is repealed.

SECTION 3.  The repeal by this Act of Section 27.02, Business & Commerce Code, applies 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 707.004, Insurance Code, as added 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.