

1 AN ACT

2 relating to the payment of insurance deductibles related to  
3 property insurance policies; creating a criminal offense.

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

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

7 CHAPTER 707. PAYMENT OF INSURANCE DEDUCTIBLE

8 Sec. 707.001. DEFINITIONS. In this chapter:

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

12 (2) "Property insurance policy" means an insurance  
13 policy issued by an insurer, including a county mutual insurance  
14 company, farm mutual insurance company, Lloyd's plan, or reciprocal  
15 or interinsurance exchange, that provides first-party coverage for  
16 loss of or damage to real property.

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

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

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

4           (2) include information regarding:

5                   (A) the requirements of this chapter and Section  
6 27.02, Business & Commerce Code; and

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

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

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

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

25           Sec. 27.02. GOODS OR SERVICES PAID FOR BY INSURANCE  
26 PROCEEDS: PAYMENT OF DEDUCTIBLE REQUIRED [~~CERTAIN INSURANCE CLAIMS~~  
27 ~~FOR EXCESSIVE CHARGES~~]. (a) In this section, "property insurance

1 policy" has the meaning assigned by Section 707.001, Insurance  
2 Code.

3 (b) A contract to provide a good or service that is  
4 reasonably expected to be paid wholly or partly from the proceeds of  
5 a claim under a property insurance policy and that has a contract  
6 price of \$1,000 or more must contain the following notice in at  
7 least 12-point boldfaced type: "Texas law requires a person  
8 insured under a property insurance policy to pay any deductible  
9 applicable to a claim made under the policy. It is a violation of  
10 Texas law for a seller of goods or services who reasonably expects  
11 to be paid wholly or partly from the proceeds of a property  
12 insurance claim to knowingly allow the insured person to fail to  
13 pay, or assist the insured person's failure to pay, the applicable  
14 insurance deductible."

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

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

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

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

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

27 (ii) provide a rebate or credit in

1 connection with the sale of the good or service that will offset all  
2 or part of the amount paid by the insured as a deductible; or

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

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

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

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

15 (C) in any other manner assists the insured in  
16 avoiding monetary payment of the required insurance deductible. [A  
17 person who sells goods or services commits an offense if:

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

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

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

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

26 [(3) the person knowingly charges an amount for the  
27 good or service that exceeds the usual and customary charge by the

1 ~~person for the good or service by an amount equal to or greater than~~  
2 ~~all or part of the applicable insurance deductible paid by the~~  
3 ~~person to an insurer on behalf of an insured or remitted to an~~  
4 ~~insured by the person as a rebate.~~

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

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

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

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

14 SECTION 3. The changes in law made by this Act to Section  
15 [27.02](#), Business & Commerce Code, apply only to an offense committed  
16 on or after the effective date of this Act. An offense committed  
17 before the effective date of this Act is governed by the law in  
18 effect on the date the offense was committed, and the former law is  
19 continued in effect for that purpose. For purposes of this section,  
20 an offense was committed before the effective date of this Act if  
21 any element of the offense occurred before that date.

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

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2102 was passed by the House on May 3, 2019, by the following vote: Yeas 136, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2102 on May 24, 2019, by the following vote: Yeas 82, Nays 50, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2102 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor