

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:

1 (A) the requirements of this chapter; and

2 (B) the conduct prohibited by Section 707.006.

3 Sec. 707.004. REQUIRED CONTRACT NOTICE. A contract to
4 provide a good or service that is reasonably expected to be paid
5 wholly or partly from the proceeds of a claim under a property
6 insurance policy and that has a contract price of \$1,000 or more
7 must contain the following notice in at least 12-point boldfaced
8 type: "Texas law requires a person insured under a property
9 insurance policy to pay any deductible applicable to a claim made
10 under the policy. It is a violation of Texas law for a person or
11 business paid wholly or partly from proceeds of a property
12 insurance claim to knowingly allow the policyholder to fail to pay,
13 or assist the policyholder's failure to pay, the applicable
14 insurance deductible."

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

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

25 Sec. 707.006. OFFENSES. (a) A person who sells goods or
26 services commits an offense if the person:

27 (1) advertises or promises to provide a good or

1 service to an insured under a property insurance policy in a
2 transaction in which:

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

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

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

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

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

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

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

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

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

27 (b) A person insured under a property insurance policy

1 commits an offense if the person, in connection with a first-party
2 claim under the policy for loss of or damage to real or personal
3 property, knowingly:

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

6 (2) without the insurer's consent:

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

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

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

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

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

23 SECTION 4. Section 707.004, Insurance Code, as added by
24 this Act, applies only to a contract entered into on or after the
25 effective date of this Act.

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