By:  Johnson, Perry S.B. No. 1268

(In the Senate - Filed February 27, 2023; March 9, 2023, read first time and referred to Committee on Business & Commerce; April 27, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 10, Nays 1; April 27, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell             X

Campbell             X

Creighton                X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 1268 By:  Johnson

A BILL TO BE ENTITLED

AN ACT

relating to the payment of insurance deductibles for property insurance claims.

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

SECTION 1.  Section 27.02(c), Business & Commerce Code, is amended to read as follows:

(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.

SECTION 2.  Section 707.004, Insurance Code, is amended to read as follows:

Sec. 707.004.  [~~REASONABLE PROOF OF~~] PAYMENT OF DEDUCTIBLE. (a) An insurer that issues a property insurance policy with replacement cost coverage shall [~~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. This subsection does not prohibit an insurer from waiving any deductible amount.

(b)  An insurer waiving a deductible owed by a policyholder under a property insurance policy for any reason may not require as a condition the policyholder's use of the insurer's preferred or recommended contractor for the claim subject to the deductible.

SECTION 3.  Section 707.004, Insurance Code, as amended by this Act, applies only to an insurance policy delivered, issued for delivery, or renewed on or after the effective date of this Act. A policy delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2023.

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