

By: Zaffirini

S.B. No. 1194

A BILL TO BE ENTITLED

AN ACT

relating to an appraisal procedure for disputed losses under certain property and casualty insurance policies.

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

SECTION 1. Subtitle A, Title 10, Insurance Code, is amended by adding Chapter 1813 to read as follows:

CHAPTER 1813. APPRAISAL PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1813.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to an insurer writing a property or casualty insurance policy, including the FAIR Plan Association, the Texas Automobile Insurance Plan Association, a Lloyd's plan, a reciprocal or interinsurance exchange, a farm mutual insurance company, and a county mutual insurance company.

(b) This chapter does not apply to the Texas Windstorm Insurance Association.

Sec. 1813.002. RULES. The commissioner may adopt rules necessary to implement this chapter.

Sec. 1813.003. REQUIRED POLICY PROVISION: APPRAISAL PROCEDURE. An insurance policy described by Section 1813.001 must contain an appraisal procedure that complies with this chapter.

SUBCHAPTER B. APPRAISAL PROCEDURES

Sec. 1813.051. APPRAISAL DEMAND. If the policyholder and insurer fail to agree to the amount of a loss covered by the policy,

1 the policyholder or insurer may provide a written demand for an
2 appraisal to the other party.

3 Sec. 1813.052. SELECTION OF APPRAISERS. Not later than the
4 20th day after the date an appraisal demand is provided under
5 Section 1813.051, the policyholder and insurer shall each:

6 (1) select a competent appraiser; and

7 (2) provide written notice to the other party of the
8 appraiser's identity.

9 Sec. 1813.053. APPRAISAL OF LOSS BY APPRAISERS; SELECTION
10 OF UMPIRE. (a) The appraisers shall appraise the loss that is the
11 subject of the appraisal not later than the 30th day after the date
12 both the policyholder and insurer have complied with Section
13 1813.052.

14 (b) The appraisers may extend the deadline described by
15 Subsection (a) for a period not to exceed 60 days on agreement by
16 the appraisers, policyholder, and insurer.

17 (c) If the appraisers agree on the amount of the loss:

18 (1) the appraisers shall provide written notice of the
19 agreement to the policyholder and insurer; and

20 (2) the agreed amount is set as the amount of the loss.

21 (d) If the appraisers fail to agree on the amount of the
22 loss, the appraisers shall select a competent and impartial umpire.

23 If the appraisers do not agree on an umpire before the 20th day
24 after the deadline for the appraisers to determine the amount of the

25 loss under this section, a judge of a court in the county in which
26 the policyholder resides shall select the umpire on the request of

27 the policyholder or insurer.

1 (e) After the umpire is selected under Subsection (d), the
2 appraisers shall provide written notice to the umpire that
3 includes:

- 4 (1) the amount each appraiser sets for the loss; and
5 (2) any supporting documentation.

6 Sec. 1813.054. APPRAISAL SELECTION BY UMPIRE. (a) The
7 umpire shall determine the amount of the loss not later than the
8 30th day after the date the umpire receives the notice described by
9 Section 1813.053(e) by selecting one of the amounts submitted to
10 the umpire.

11 (b) The umpire may extend the deadline described by
12 Subsection (a) for a period not to exceed 60 days on agreement by
13 the appraisers, policyholder, and insurer.

14 (c) On deciding on the amount of the loss, the umpire shall
15 provide a written determination to the policyholder and insurer
16 that:

- 17 (1) sets the amount of the loss; and
18 (2) is signed by the umpire and the appraiser whose
19 appraisal amount is selected by the umpire.

20 (d) A determination provided under Subsection (c) does not
21 prevent either party from pursuing its rights under the policy or
22 law.

23 Sec. 1813.055. APPRAISAL EXPENSES. (a) Except as provided
24 by Subsection (c), the party selecting an appraiser shall pay that
25 appraiser.

26 (b) Except as provided by Subsection (c), the policyholder
27 and insurer shall equally divide and pay the umpire's expenses, as

1 applicable, and all other appraisal expenses.

2 (c) If at the end of the appraisal process the amount of the
3 loss is determined to be at least \$1 more than the amount of the
4 insurer's proposed undisputed loss statement, the insurer shall
5 refund the policyholder's reasonable expenses incurred as a result
6 of the appraisal.

7 Sec. 1813.056. EFFECT OF APPRAISAL. (a) The appraisal does
8 not affect any applicable policy terms, including deductibles.

9 (b) The appraisal procedure provided by this chapter is
10 intended to function as a liquidated damages clause, and the use of
11 the procedure is not a condition precedent to bringing an action for
12 a violation of this code, for a breach of contract, or for any other
13 common-law or statutory remedy.

14 SECTION 2. Chapter 1813, Insurance Code, as added by this
15 Act, applies only to an insurance policy delivered, issued for
16 delivery, or renewed on or after January 1, 2024.

17 SECTION 3. This Act takes effect September 1, 2023.