

BILL ANALYSIS

C.S.H.B. 1437
By: Clardy
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A right of appraisal clause in a personal automobile insurance policy is meant to provide a method of reaching a settlement when there is a dispute concerning the amount of a loss between a policyholder and an insurance company. The appraisal clause can be utilized when there is a dispute over the cost to repair a vehicle or the value of a vehicle in a total loss claim. The right to appraisal offers an amicable resolution to dispute the loss, allows unbiased professionals to determine the loss, and offers an alternative path to lawsuits. Often, an inexperienced insurance adjuster will write a loss statement or estimate that will unsafely repair the vehicle. These unsafely repaired vehicles are dangerous and could harm other drivers. Under current law, insurance companies are not required to include an appraisal process in their policies. When a dispute arises over the proper repair plan or loss settlement, a policy with limited or restricted appraisal rights leaves the policyholder facing harmful losses. C.S.H.B. 1437 seeks to ensure Texans have the right to an appraisal process in a loss determination by requiring insurance companies writing personal automobile insurance in Texas to include an appraisal procedure in their policies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1437 amends the Insurance Code to require a personal automobile insurance policy to contain an appraisal procedure that complies with the bill's provisions. The bill authorizes an insurer writing personal automobile insurance in Texas or the named insured to demand an appraisal not later than the 90th day after the insurer accepts liability and issues the insurer's undisputed liability offer. The bill, with respect to the appraisal, provides the following:

- each party must appoint an unbiased appraiser and notify the other party of that appraiser's identity not later than the 15th day after the date an appraisal is demanded;
- the appraisers appointed by the parties must determine the amount of loss;
- if the appraisers fail to agree on that amount after the 30th day after the date all appraisers are appointed, the appraisers must select an unbiased umpire and the appraisers and umpire must determine the amount of loss not later than the 30th day after the date the umpire is selected;
- the determination of the amount of loss agreed to by both appraisers or by one appraiser and the umpire is binding on both parties; and
- the insurer or the named insured may request that a court in the county in which the named insured resides select the umpire if the two appraisers are unable to agree on an umpire on or before the 15th day after the date the appraisers determine an umpire is needed.

C.S.H.B. 1437 establishes that each party is responsible for the party's appraiser's fees and expenses and provides for the payment between parties as follows:

- if at the end of the appraisal process the amount of loss is determined to be more than 10 percent greater than the amount of the insurer's last offer, the insurer must refund the named insured's reasonable out-of-pocket expenses for the insured's appraiser's fees and expenses;

- if at the end of the appraisal process the appraisal award is more than 10 percent less than the amount the insurer last offered, the named insured must pay the insurer's appraiser's reasonable fees and expenses; and
- all other appraisal expenses, including umpire expenses, are shared evenly between the parties.

C.S.H.B. 1437 establishes that an insurer and a named insured do not waive any rights under the policy that is the subject of the appraisal by demanding an appraisal.

C.S.H.B. 1437 applies to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1437 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and the substitute provide a process by which an amount of loss under an automobile insurance policy may be disputed through an appraisal, the substitute changes provisions it shares with the introduced as follows:

- the substitute specifies that the insurers writing automobile insurance to which the bill applies are insurers writing personal automobile insurance, whereas the introduced did not;
- the substitute changes the deadline set by the introduced for an insurer or the named insured to demand an appraisal from the 90th day after the date a proof of loss is filed with the insurer if the insurer and insured do not agree on the amount of the loss, as in the introduced, to the 90th day after the insurer accepts liability and issues the insurer's undisputed liability offer;
- the substitute provides for the appointment of an unbiased appraiser and the selection of an unbiased umpire, whereas the introduced provided for the appointment of a competent appraiser and a qualified umpire;
- the substitute sets the deadline for selecting an umpire if the appraisers fail to agree on the amount of loss at the 30th day after the date all appraisers are appointed, whereas the introduced did not set a deadline for this selection;
- the substitute sets the deadline for the appraisers and umpire to determine the amount of loss at the 30th day after the date the umpire is selected, whereas the introduced did not set a deadline for this determination;
- the substitute requires the insurer to refund certain reasonable out-of-pocket expenses if at the end of the appraisal process the amount of loss is determined to be more than 10 percent greater than the amount of the insurer's last offer, whereas the introduced required the insurer to provide such a refund if at the end of the appraisal process the amount of the loss is determined to be more than \$1 greater than the amount of the insurer's proposed undisputed loss statement; and
- the substitute requires the named insured to pay the insurer's appraiser's reasonable fees and expenses if at the end of the appraisal process the appraisal award is more than 10 percent less than the amount the insurer last offered, whereas the introduced required the named insured to refund the insurer the insurer's appraiser's fees and expenses if at the end of the appraisal process the insurer's proposed undisputed loss statement is determined to be just.