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Bill Title: Relating to an appraisal procedure for disputed losses under personal automobile insurance policies.

Spectrum: Partisan Bill (Republican 1-0)

Status: (Introduced) 2023-03-03 - Referred to Insurance [HB1437 Detail]

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By: Clardy

H.B. No. 1437

A BILL TO BE ENTITLED

AN ACT

relating to an appraisal procedure for disputed losses under
personal automobile insurance policies.

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

SECTION 1. Chapter 1952, Insurance Code, is amended by
adding Subchapter I to read as follows:

SUBCHAPTER I. APPRAISAL PROCEDURES

Sec. 1952.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insurer writing automobile insurance in this state, including an insurance company, corporation, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, association, county mutual insurance company, Lloyd's plan, and any other insurer.

Sec. 1952.402. REQUIRED POLICY PROVISION: APPRAISAL PROCEDURE. A personal automobile insurance policy must contain an appraisal procedure that complies with this subchapter.

Sec. 1952.403. APPRAISAL DEMAND; APPOINTMENT OF APPRAISERS. (a) An insurer or the named insured may demand an appraisal not later than 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.

(b) Each party shall appoint a competent appraiser and notify the other party of that appraiser's identity not later than the 15th day after the date an appraisal is demanded.

Sec. 1952.404. DETERMINATION OF LOSS. (a) The appraisers appointed by the parties shall determine the amount of loss.

(b) If the appraisers fail to agree on the amount of loss, the appraisers shall select a qualified umpire. The appraisers and

umpire shall determine the amount of loss.

(c) The determination of the amount of loss agreed to by both appraisers or by one appraiser and the umpire is binding on both parties.

Sec. 1952.405. COURT SELECTION OF 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, the insurer or the named insured may request that a court in the county in which the named insured resides select the umpire.

Sec. 1952.406. APPRAISAL FEES AND EXPENSES. (a) Each party is responsible for the party's appraiser's fees and expenses.

(b) If at the end of the appraisal process the amount of loss is determined to be more than \$1 greater than the amount of the insurer's proposed undisputed loss statement, the insurer shall refund the named insured's reasonable out-of-pocket expenses for the insured's appraiser's fees and expenses.

(c) If at the end of the appraisal process the insurer's proposed undisputed loss statement is determined to be just, the named insured shall refund the insurer the insurer's appraiser's fees and expenses.

(d) All other appraisal expenses, including umpire expenses, are shared evenly between the parties.

Sec. 1952.407. NO RIGHTS WAIVED. 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.

SECTION 2. The change in law made by this Act applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2024.

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