

1-1 By: Capriglione, et al. H.B. No. 2102  
1-2 (Senate Sponsor - Zaffirini)  
1-3 (In the Senate - Received from the House May 6, 2019;  
1-4 May 6, 2019, read first time and referred to Committee on Business  
1-5 & Commerce; May 20, 2019, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-7 May 20, 2019, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Hancock	X			
Nichols	X			
Campbell	X			
Creighton				X
Menéndez	X			
Paxton	X			
Schwertner	X			
Whitmire				X
Zaffirini	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2102 By: Zaffirini

1-20 A BILL TO BE ENTITLED  
1-21 AN ACT

1-22 relating to the payment of insurance deductibles related to  
1-23 property insurance policies; creating a criminal offense.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle F, Title 5, Insurance Code, is amended  
1-26 by adding Chapter 707 to read as follows:

1-27 CHAPTER 707. PAYMENT OF INSURANCE DEDUCTIBLE

1-28 Sec. 707.001. DEFINITIONS. In this chapter:

1-29 (1) "Person" means an individual, corporation,  
1-30 association, partnership, limited liability company, or other  
1-31 legal entity.

1-32 (2) "Property insurance policy" means an insurance  
1-33 policy issued by an insurer, including a county mutual insurance  
1-34 company, farm mutual insurance company, Lloyd's plan, or reciprocal  
1-35 or interinsurance exchange, that provides first-party coverage for  
1-36 loss of or damage to real property.

1-37 Sec. 707.002. PAYMENT OF DEDUCTIBLE REQUIRED. A person  
1-38 insured under a property insurance policy shall pay any deductible  
1-39 applicable to a first-party claim made under the policy.

1-40 Sec. 707.003. CONSUMER EDUCATION. The department, in  
1-41 coordination with other state agencies and stakeholders as  
1-42 necessary, shall develop and implement an education program related  
1-43 to the payment of property insurance policy deductibles. The  
1-44 program must:

1-45 (1) provide reasonable methods to educate insurance  
1-46 consumers and providers of goods or services that are regularly  
1-47 paid for from proceeds of property insurance claims; and

1-48 (2) include information regarding:

1-49 (A) the requirements of this chapter and Section  
1-50 27.02, Business & Commerce Code; and

1-51 (B) the conduct prohibited by Section 27.02,

1-52 Business & Commerce Code.

1-53 Sec. 707.004. REASONABLE PROOF OF PAYMENT. An insurer that  
1-54 issues a property insurance policy with replacement cost coverage  
1-55 may refuse to pay a claim for withheld recoverable depreciation or a  
1-56 replacement cost holdback under the policy until the insurer  
1-57 receives reasonable proof of payment by the policyholder of any  
1-58 deductible applicable to the claim. Reasonable proof of payment  
1-59 includes a canceled check, money order receipt, credit card  
1-60 statement, or copy of an executed installment plan contract or

2-1 other financing arrangement that requires full payment of the  
 2-2 deductible over time.

2-3 Sec. 707.005. RULEMAKING. The commissioner may adopt rules  
 2-4 as necessary to implement this chapter. Section 2001.0045,  
 2-5 Government Code, does not apply to rules adopted under this  
 2-6 section.

2-7 SECTION 2. Section 27.02, Business & Commerce Code, is  
 2-8 amended to read as follows:

2-9 Sec. 27.02. GOODS OR SERVICES PAID FOR BY INSURANCE  
 2-10 PROCEEDS: PAYMENT OF DEDUCTIBLE REQUIRED [CERTAIN INSURANCE CLAIMS  
 2-11 FOR EXCESSIVE CHARGES]. (a) In this section, "property insurance  
 2-12 policy" has the meaning assigned by Section 707.001, Insurance  
 2-13 Code.

2-14 (b) A contract to provide a good or service that is  
 2-15 reasonably expected to be paid wholly or partly from the proceeds of  
 2-16 a claim under a property insurance policy and that has a contract  
 2-17 price of \$1,000 or more must contain the following notice in at  
 2-18 least 12-point boldfaced type: "Texas law requires a person  
 2-19 insured under a property insurance policy to pay any deductible  
 2-20 applicable to a claim made under the policy. It is a violation of  
 2-21 Texas law for a seller of goods or services who reasonably expects  
 2-22 to be paid wholly or partly from the proceeds of a property  
 2-23 insurance claim to knowingly allow the insured person to fail to  
 2-24 pay, or assist the insured person's failure to pay, the applicable  
 2-25 insurance deductible."

2-26 (c) A person who sells goods or services commits an offense  
 2-27 if the person:

2-28 (1) advertises or promises to provide a good or  
 2-29 service to an insured under a property insurance policy in a  
 2-30 transaction in which:

2-31 (A) the good or service will be paid for by the  
 2-32 insured from the proceeds of a property insurance claim; and

2-33 (B) the person selling the good or service will,  
 2-34 without the insurer's consent:

2-35 (i) pay, waive, absorb, or otherwise  
 2-36 decline to charge or collect the amount of the insured's  
 2-37 deductible;

2-38 (ii) provide a rebate or credit in  
 2-39 connection with the sale of the good or service that will offset all  
 2-40 or part of the amount paid by the insured as a deductible; or

2-41 (iii) in any other manner assist the  
 2-42 insured in avoiding monetary payment of the required insurance  
 2-43 deductible; or

2-44 (2) provides a good or service to an insured under a  
 2-45 property insurance policy knowing that the insured will pay for the  
 2-46 good or service with the proceeds of a claim under the policy and,  
 2-47 without the insurer's consent:

2-48 (A) pays, waives, absorbs, or otherwise declines  
 2-49 to charge or collect the amount of the insured's deductible;

2-50 (B) provides a rebate or credit in connection  
 2-51 with the sale of the good or service that offsets all or part of the  
 2-52 amount paid by the insured as a deductible; or

2-53 (C) in any other manner assists the insured in  
 2-54 avoiding monetary payment of the required insurance deductible. [A  
 2-55 person who sells goods or services commits an offense if:

2-56 [(1) the person advertises or promises to provide the  
 2-57 good or service and to pay;]

2-58 [(A) all or part of any applicable insurance  
 2-59 deductible; or]

2-60 [(B) a rebate in an amount equal to all or part of  
 2-61 any applicable insurance deductible;]

2-62 [(2) the good or service is paid for by the consumer  
 2-63 from proceeds of a property or casualty insurance policy; and]

2-64 [(3) the person knowingly charges an amount for the  
 2-65 good or service that exceeds the usual and customary charge by the  
 2-66 person for the good or service by an amount equal to or greater than  
 2-67 all or part of the applicable insurance deductible paid by the  
 2-68 person to an insurer on behalf of an insured or remitted to an  
 2-69 insured by the person as a rebate.]

3-1        ~~[(b) A person who is insured under a property or casualty  
3-2 insurance policy commits an offense if the person:~~

3-3            ~~[(1) submits a claim under the policy based on charges  
3-4 that are in violation of Subsection (a) of this section; or  
3-5 (2) knowingly allows a claim in violation of  
3-6 Subsection (a) of this section to be submitted, unless the person  
3-7 promptly notifies the insurer of the excessive charges.]~~

3-8        ~~(d) [(-e)] An offense under this section is a Class B [A]~~  
3-9 misdemeanor.

3-10        SECTION 3. The changes in law made by this Act to Section  
3-11 **27.02**, Business & Commerce Code, apply only to an offense committed  
3-12 on or after the effective date of this Act. An offense committed  
3-13 before the effective date of this Act is governed by the law in  
3-14 effect on the date the offense was committed, and the former law is  
3-15 continued in effect for that purpose. For purposes of this section,  
3-16 an offense was committed before the effective date of this Act if  
3-17 any element of the offense occurred before that date.

3-18        SECTION 4. Section **27.02**(b), Business & Commerce Code, as  
3-19 amended by this Act, applies only to a contract entered into on or  
3-20 after the effective date of this Act.

3-21        SECTION 5. This Act takes effect September 1, 2019.

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