

By: Taylor of Galveston  
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S.B. No. 1628

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to insurance claims and certain prohibited acts and  
3 practices in or in relation to the business of insurance; amending  
4 provisions that are or may be subject to a criminal penalty.

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

6 SECTION 1. The legislature finds that:

7 (1) there is an explosion in property insurance  
8 litigation, often related to hail claims, that has created a  
9 property insurance crisis for consumers that must be addressed for  
10 the benefit of consumers;

11 (2) the property insurance crisis, if left unchecked,  
12 will severely affect the availability and affordability of property  
13 insurance for consumers, including coverage for hail claims, to the  
14 detriment of consumers;

15 (3) this Act will help consumers who currently  
16 sometimes barely qualify for home loans, or may be unable to qualify  
17 for those loans, because of the increase in the cost of insurance  
18 attributable to hail claims litigation;

19 (4) this Act will help consumers by:

20 (A) preventing further disruption of the  
21 insurance market and erosion in the availability of property  
22 insurance caused by hail claims litigation as have already been  
23 seen in certain parts of the state in which carriers have withdrawn  
24 from geographical markets and stopped offering insurance to

1 consumers;

2 (B) preventing an increase in future premiums  
3 caused by the losses attributable to hail claims litigation;

4 (C) preventing an increase in deductibles in  
5 property insurance policies attributable to hail claims  
6 litigation;

7 (D) reducing the incentives to those  
8 unscrupulous public adjusters, roofers, contractors, and lawyers  
9 who provide fraudulent or inflated estimates and claims in the name  
10 of consumers;

11 (E) requiring lawyers to make sure the consumers  
12 have actual awareness of the claims being submitted on behalf of the  
13 consumers;

14 (F) requiring lawyers to inform consumers that  
15 lawsuits are being filed in the name of the consumers;

16 (G) requiring public adjusters, roofers,  
17 contractors, and lawyers to disclose their actual relationships to  
18 one another, which currently may not be disclosed;

19 (H) ensuring that each consumer in fact knows the  
20 damages the consumer is seeking in any claim or lawsuit that is  
21 filed;

22 (I) reducing instances of fraud or  
23 misinformation in the preparation and submission of property  
24 insurance claims and the filing of lawsuits related to those  
25 claims;

26 (J) encouraging consumers and those who act on  
27 behalf of consumers to diligently identify and pursue claims so

1 consumers are not faced with insurance carrier assertions that  
2 policyholder claims are filed too late and can, as a result, be  
3 declined; and

4 (K) providing insurance policyholders a  
5 transparent and fair appraisal process to resolve disputes with  
6 insurance carriers without the need of expensive, risky, and  
7 time-consuming lawsuits, while maintaining consumers' rights to  
8 pursue lawsuits against carriers, if necessary;

9 (5) this Act will help deter corruption of the law and  
10 will help restore respect for the law by preventing rampant  
11 solicitation of fraudulent or non-meritorious claims and the filing  
12 of fraudulent, inflated, or otherwise non-meritorious claims; and

13 (6) this Act will help prevent disruption and  
14 dislocation in the real estate and financial markets by deterring  
15 abusive lawsuits that make property and casualty insurance  
16 unaffordable or unavailable to many Texans, resulting in artificial  
17 costs and barriers to the sale and rental of improved real estate  
18 properties and the placement of loans on those properties.

19 SECTION 2. Section 541.060, Insurance Code, is amended by  
20 adding Subsection (c) to read as follows:

21 (c) A bona fide dispute as to whether an insurer is liable  
22 for a claim made under an insurance policy covering real property or  
23 improvements to real property does not constitute an unfair  
24 settlement practice under this section.

25 SECTION 3. Section 541.151, Insurance Code, is amended to  
26 read as follows:

27 Sec. 541.151. PRIVATE ACTION FOR ACTUAL DAMAGES AUTHORIZED.

1 Except as provided by Section 541.1511, a [A] person who sustains  
2 actual damages may bring an action against another person for those  
3 damages caused by the other person engaging in an act or practice:

4 (1) defined by Subchapter B to be an unfair method of  
5 competition or an unfair or deceptive act or practice in the  
6 business of insurance; or

7 (2) specifically enumerated in Section 17.46(b),  
8 Business & Commerce Code, as an unlawful deceptive trade practice  
9 if the person bringing the action shows that the person relied on  
10 the act or practice to the person's detriment.

11 SECTION 4. Subchapter D, Chapter 541, Insurance Code, is  
12 amended by adding Section 541.1511 to read as follows:

13 Sec. 541.1511. ACTION RELATING TO CLAIM FOR PROPERTY  
14 DAMAGE: INSURER ELECTION FOR LEGAL RESPONSIBILITY FOR ACTIONS OF  
15 AGENTS AND EMPLOYEES. (a) This section applies only to an action  
16 brought by an insured relating to or arising from a claim made under  
17 an insurance policy for damage to or loss of real property or  
18 tangible personal property alleged to be covered by the policy.

19 (b) An insured seeking damages in an action to which this  
20 section applies may not file or maintain an action under this  
21 subchapter against an employee, agent, representative, or adjuster  
22 issuing policies, handling claims, or performing other acts on  
23 behalf of an insurer, and any such action shall be immediately  
24 dismissed, if:

25 (1) the employee, agent, representative, or adjuster  
26 was not named in a notice given under Section 541.1541; or

27 (2) not later than the 30th day after the date the

1 notice given under Section 541.1541 is received, the insurer agrees  
2 in a document provided to the insured to be liable for any act or  
3 omission of the employee, agent, representative, or adjuster  
4 related to or arising out of the insured's claim.

5 (c) A dismissal under Subsection (b)(1) and agreement under  
6 Subsection (b)(2) do not limit the insurer's liability and do not  
7 limit the insurer's vicarious liability for any act or omission of  
8 the employee, agent, representative, or adjuster related to or  
9 arising out of the insured's claim.

10 SECTION 5. The heading to Section 541.152, Insurance Code,  
11 is amended to read as follows:

12 Sec. 541.152. ACTUAL DAMAGES, ATTORNEY'S FEES, AND OTHER  
13 RELIEF.

14 SECTION 6. The heading to Section 541.154, Insurance Code,  
15 is amended to read as follows:

16 Sec. 541.154. PRIOR NOTICE OF ACTION OTHER THAN ACTION  
17 RELATING TO CLAIM FOR PROPERTY DAMAGE.

18 SECTION 7. Section 541.154(a), Insurance Code, is amended  
19 to read as follows:

20 (a) Except as provided by Section 541.1541, a [A] person  
21 seeking damages in an action against another person under this  
22 subchapter must provide written notice to the other person not  
23 later than the 61st day before the date the action is filed.

24 SECTION 8. Subchapter D, Chapter 541, Insurance Code, is  
25 amended by adding Section 541.1541 to read as follows:

26 Sec. 541.1541. PRIOR NOTICE OF ACTION RELATING TO CLAIM FOR  
27 PROPERTY DAMAGE. (a) This section applies only to an action

1 brought by an insured relating to or arising from a claim made under  
2 an insurance policy for damage to or loss of real property or  
3 tangible personal property alleged to be covered by the policy.

4 (b) An insured seeking damages in an action to which this  
5 section applies must provide written notice complying with this  
6 section to all potential defendants not later than the 61st day  
7 before the date the action is filed.

8 (c) If the amount sought by the insured in the action  
9 involves a claim for damage items previously submitted to an  
10 insurer, the notice must be signed by the insured and state:

11 (1) the specific damage items and the amount alleged  
12 to be owed by the insurer under the insurance contract;

13 (2) the amount of the actual damages, other damages,  
14 interest, and expenses, specifically stated for each item, that the  
15 insured alleges are owed by the insurer;

16 (3) the amount of attorney's fees the insured  
17 reasonably has incurred as of the date the notice is given in  
18 asserting the claim against the insurer;

19 (4) an amount that includes the amounts described by  
20 Subdivisions (1) through (3) that the insured will accept in full  
21 and final satisfaction of the claim; and

22 (5) the name of every person to whom notice is given  
23 under this section and a brief description of each person's  
24 relationship to the insured's claim.

25 (d) If the amount sought by the insured in the action  
26 involves a claim for damage items not previously submitted to the  
27 insurer, the notice must contain, in addition to the items listed in

1 Subsection (c):

2 (1) a statement of the reason the damage items were not  
3 previously submitted to the insurer;

4 (2) copies of reports, estimates, photographs, and  
5 other items reasonably supporting the insured's additional damage  
6 items; and

7 (3) a statement that the insured will cooperate in  
8 allowing the insurer to inspect the insured property for purposes  
9 of investigating the additional damage items.

10 (e) Notice required by this section must be sent to the  
11 insurer by certified mail, return receipt requested.

12 (f) A presuit notice under this section is not required if  
13 giving notice is impracticable because the action:

14 (1) must be filed to prevent the statute of  
15 limitations from expiring; or

16 (2) is asserted as a counterclaim.

17 SECTION 9. Section 541.155, Insurance Code, is amended to  
18 read as follows:

19 Sec. 541.155. ABATEMENT; DISMISSAL. (a) A person against  
20 whom an action under this subchapter is pending who does not receive  
21 ~~the~~ notice as required by Section 541.154 or 541.1541(c) may file  
22 a plea in abatement not later than the 30th day after the date the  
23 person files an original answer in the court in which the action is  
24 pending.

25 (b) The court shall abate the action if, after a hearing,  
26 the court finds that the person is entitled to an abatement because  
27 the claimant did not provide ~~the~~ notice as required by Section

1 541.154 or 541.1541(c).

2 (c) An action is automatically abated without a court order  
3 beginning on the 11th day after the date a plea in abatement is  
4 filed if the plea:

5 (1) is verified and alleges that the person against  
6 whom the action is pending did not receive ~~[the]~~ notice as required  
7 by Section 541.154 or 541.1541(c); and

8 (2) is not controverted by an affidavit filed by the  
9 claimant before the 11th day after the date the plea in abatement is  
10 filed.

11 (d) An abatement under this section continues until the 60th  
12 day after the date notice is provided in compliance with Section  
13 541.154 or 541.1541(c).

14 (d-1) A person against whom an action under this subchapter  
15 is pending who does not receive notice as required by Section  
16 541.1541(d) may file a motion to dismiss not later than the 30th day  
17 after the date the person files an original answer in the court in  
18 which the action is pending.

19 (d-2) The court shall grant the motion under Subsection  
20 (d-1) if, after a hearing, the court finds that the person is  
21 entitled to dismissal because the claimant did not provide notice  
22 as required by Section 541.1541(d). A dismissal ordered under this  
23 section is without prejudice to the rights of the parties in a  
24 subsequent action.

25 (e) Subsections (d-1) and (d-2) do ~~[This section does]~~ not  
26 apply if Section 541.1541(f) ~~[541.154(c)]~~ applies. If Section  
27 541.1541(f) applies, the action may not be dismissed but shall be



1 abated in accordance with Subsections (b), (c), and (d).

2 SECTION 10. Section 542.058(b), Insurance Code, is amended  
3 to read as follows:

4 (b) Subsection (a) does not apply in a case in which it is  
5 found as a result of arbitration or litigation that:

6 (1) a claim received by an insurer is invalid and  
7 should not be paid by the insurer; or

8 (2) there exists a bona fide dispute in a claim made  
9 under an insurance policy covering real property or improvements to  
10 real property as to the insurer's liability for payment of the  
11 claim.

12 SECTION 11. Subchapter B, Chapter 542, Insurance Code, is  
13 amended by adding Section 542.0595 to read as follows:

14 Sec. 542.0595. PRIOR NOTICE OF ACTION RELATING TO CLAIM FOR  
15 PROPERTY DAMAGE; ABATEMENT OR DISMISSAL. (a) An insured may not  
16 bring suit under Section 542.060 in connection with a claim made  
17 under an insurance policy for damage to or loss of real property or  
18 tangible personal property unless the insured has provided written  
19 notice to the insurer with respect to the claim in accordance with  
20 Section 541.1541.

21 (b) A suit under Section 542.060 for which notice is  
22 required by this section is subject to abatement or dismissal to the  
23 same extent and in the same manner provided by Section 541.155 for  
24 an action under Subchapter D, Chapter 541.

25 SECTION 12. Section 542.060, Insurance Code, is amended to  
26 read as follows:

27 Sec. 542.060. LIABILITY FOR VIOLATION OF SUBCHAPTER.

1 (a) If an insurer that is liable for a claim under an insurance  
2 policy is not in compliance with this subchapter, the insurer is  
3 liable to pay the holder of the policy or the beneficiary making the  
4 claim under the policy, in addition to the amount of the claim,  
5 interest on the unpaid amount of the claim at the rate of 18 percent  
6 a year as damages, together with reasonable attorney's fees.

7 (a-1) In determining the amount of attorney's fees awarded  
8 under Subsection (a), the trier of fact shall consider:

9 (1) the time and labor required, the novelty and  
10 difficulty of the questions involved, and the skill requisite to  
11 perform the legal service properly;

12 (2) the likelihood, if apparent to the claimant, that  
13 the acceptance of the particular employment will preclude other  
14 employment by the attorney;

15 (3) the fee customarily charged in the locality for  
16 similar legal services;

17 (4) the amount involved and the results obtained;

18 (5) the time limitations imposed by the claimant or by  
19 the circumstances;

20 (6) the nature and length of the professional  
21 relationship with the claimant;

22 (7) the experience, reputation, and ability of the  
23 attorney performing the services; and

24 (8) whether the fee is fixed or contingent on results  
25 obtained or uncertainty of collection before the legal services  
26 have been rendered.

27 (a-2) An attorney may not share attorney's fees awarded

1 under Subsection (a) with the claimant. If a court finds that an  
2 attorney has violated this subsection, the court shall order the  
3 attorney to pay a penalty in an amount equal to two times the amount  
4 shared with the claimant. A penalty under this section is payable  
5 to the court.

6 (b) If a suit is filed, interest and ~~[the]~~ attorney's fees  
7 payable under this section shall be taxed as part of the costs in  
8 the case.

9 (c) The liability for interest and attorney's fees provided  
10 by this section is the exclusive remedy for a violation of this  
11 subchapter. This section is not intended to affect a right or  
12 remedy provided by Chapter 541 or any other law outside this  
13 subchapter.

14 (d) If a claim for a loss has been paid by the insurer and a  
15 suit under this section arises out of a supplemental claim for that  
16 loss, interest awarded under this section on the supplemental claim  
17 begins to accrue on the 60th day after the date the insurer receives  
18 notice of the supplemental claim.

19 SECTION 13. Subchapter B, Chapter 542, Insurance Code, is  
20 amended by adding Section 542.0601 to read as follows:

21 Sec. 542.0601. LIABILITY WITH RESPECT TO CERTAIN CLAIMS.  
22 An insurer is not liable under Section 542.060 with respect to a  
23 claim made under an insurance policy covering real property or  
24 improvements to real property if the claim is resolved through  
25 appraisal in accordance with the terms of the policy.

26 SECTION 14. Subtitle A, Title 10, Insurance Code, is  
27 amended by adding Chapters 1808 and 1809 to read as follows:

1           CHAPTER 1808. CLAIMS FOR PROPERTY DAMAGE

2           Sec. 1808.001. DEFINITION. In this chapter, "claim for  
3 property damage" means a request for payment under an insurance  
4 policy for damage to or loss of real property or tangible personal  
5 property alleged to be covered by the policy.

6           Sec. 1808.002. APPLICABILITY OF CHAPTER. This chapter  
7 applies to any claim under or related to an insurance policy that  
8 provides insurance coverage against damage to or loss of real  
9 property or tangible personal property, including a policy issued  
10 by an eligible surplus lines insurer or by an insurance company,  
11 reciprocal or interinsurance exchange, mutual insurance company,  
12 capital stock insurance company, county mutual insurance company,  
13 farm mutual insurance company, Lloyd's plan, or other legal entity  
14 authorized to write property insurance in this state.

15           Sec. 1808.003. CLAIM FILING PERIOD. (a) Subject to  
16 Subsection (b), failure to provide notice of a claim for property  
17 damage by the second anniversary of the date on which the damage to  
18 or loss of property that is the basis of the claim occurs is an  
19 absolute bar to recovery on the claim.

20           (b) Subject to Subsection (c), the commissioner, using  
21 existing resources, may on a showing of good cause extend the  
22 deadline for providing notice of a claim prescribed by Subsection  
23 (a).

24           (c) The extension of a deadline under Subsection (b) may not  
25 exceed 120 days.

26           (d) For the purposes of Subsection (b), "good cause"  
27 includes military deployment.

1       (e) Nothing in this section precludes an insurer from  
2 raising any defense available under the terms of its policy  
3 relating to prompt notice or that is otherwise available under the  
4 law.

5           CHAPTER 1809. APPRAISAL PROCESS FOR CERTAIN POLICIES

6           Sec. 1809.001. NOTICE OF APPRAISAL PROVISIONS; APPRAISER  
7 SELECTION PROCESS. (a) If an insurance policy covering real  
8 property or improvements to real property contains a provision  
9 allowing resolution of a dispute through appraisal, the policy must  
10 contain, in boldface type, a conspicuous notice concerning the  
11 resolution of disputes through the appraisal process, including:

12                   (1) the processes and deadlines for appraisal; and

13                   (2) the binding effect, if any, of the appraisal  
14 decision.

15           (b) The appraisal process must provide and the notice  
16 required by this section must inform the insured that:

17                   (1) if the appraisal process is invoked, the insured  
18 and insurer each will be required to name an appraiser, and those  
19 two appraisers must agree on a competent and impartial appraisal  
20 umpire to participate in the resolution of the dispute; and

21                   (2) if the appraisers named by the insured and insurer  
22 are unable to agree for any reason on a competent and impartial  
23 appraisal umpire to participate in the resolution of the dispute,  
24 the commissioner will select a competent and impartial appraisal  
25 umpire from a roster of qualified umpires maintained by the  
26 department.

27           Sec. 1809.002. APPRAISAL AWARD. An appraisal award made

1 under a policy covering real property or improvements to real  
2 property must be consistent with the coverage, conditions, and  
3 limits provided by the policy and must account for any prior  
4 payments and applicable deductible amounts.

5 SECTION 15. Section 4102.051(a), Insurance Code, is amended  
6 to read as follows:

7 (a) A person may not act as a public insurance adjuster in  
8 this state or hold himself or herself out to be a public insurance  
9 adjuster in this state unless the person holds a license [~~or~~  
10 ~~certificate~~] issued by the commissioner under Section 4102.053  
11 or [~~7~~] 4102.054 [~~7~~, ~~or~~ 4102.069].

12 SECTION 16. Sections 4102.066(a) and (b), Insurance Code,  
13 are amended to read as follows:

14 (a) The commissioner shall collect in advance the following  
15 nonrefundable fees:

16 (1) for a public insurance adjuster license, an  
17 application fee in an amount to be determined by rule by the  
18 commissioner;

19 (2) for a nonresident public insurance adjuster  
20 license, an application fee in an amount to be determined by rule by  
21 the commissioner; and

22 (3) for each public insurance adjuster examination, a  
23 fee in an amount to be determined by rule by the commissioner [~~7~~, ~~and~~

24 [~~(4) for a public insurance adjuster trainee~~  
25 ~~certificate under Section 4102.069, a registration fee in an amount~~  
26 ~~to be determined by rule by the commissioner]~~].

27 (b) The amount of the fee for the renewal of a license [~~or a~~

1 ~~certificate~~] issued under this chapter shall be determined by rule  
2 by the commissioner.

3 SECTION 17. Section 4102.103, Insurance Code, is amended by  
4 adding Subsection (d) to read as follows:

5 (d) A license holder may not enter into a contract with an  
6 insured and collect a commission as provided by Section 4102.104  
7 without the intent to actually perform the services customarily  
8 provided by a licensed public insurance adjuster for the insured.

9 SECTION 18. Section 4102.104(d), Insurance Code, is amended  
10 to read as follows:

11 (d) A public insurance adjuster may not accept any payment  
12 that violates the provisions of this section [~~Subsection (c)~~].

13 SECTION 19. Section 4102.158, Insurance Code, is amended by  
14 amending Subsection (a) and adding Subsections (d), (e), and (f) to  
15 read as follows:

16 (a) A license holder may not:

17 (1) participate directly or indirectly in the  
18 reconstruction, repair, or restoration of damaged property that is  
19 the subject of a claim adjusted by the license holder; or

20 (2) engage in any other activities that may reasonably  
21 be construed as presenting a conflict of interest, including  
22 soliciting or accepting any remuneration from, [~~or~~] having a  
23 financial interest in, or deriving any direct or indirect financial  
24 benefit from, any salvage firm, repair firm, construction firm, or  
25 other firm that obtains business in connection with any claim the  
26 license holder has a contract or agreement to adjust.

27 (d) A license holder may not directly or indirectly solicit,

1 as described by Chapter 38, Penal Code, employment for an attorney  
2 or enter into a contract with an insured for the primary purpose of  
3 referring an insured to an attorney and without the intent to  
4 actually perform the services customarily provided by a licensed  
5 public insurance adjuster. This section may not be construed to  
6 prohibit a license holder from recommending a particular attorney  
7 to an insured.

8 (e) A license holder may not act on behalf of an attorney in  
9 having an insured sign an attorney representation agreement.

10 (f) A license holder must become familiar with and at all  
11 times act in conformance with the criminal barratry statute set  
12 forth in Section 38.12, Penal Code.

13 SECTION 20. Section 4102.160, Insurance Code, is amended to  
14 read as follows:

15 Sec. 4102.160. CERTAIN PAYMENTS PROHIBITED. A license  
16 holder may not:

17 (1) advance money to any potential client or insured;  
18 or

19 (2) pay, allow, or give, or offer to pay, allow, or  
20 give, directly or indirectly, to a person who is not a licensed  
21 public insurance adjuster a fee, commission, or other valuable  
22 consideration for the referral of an insured to the public  
23 insurance adjuster for purposes of ~~based on~~ the insured entering  
24 into a contract with that public insurance adjuster or for any other  
25 purpose ~~, or~~

26 ~~[(3) otherwise offer to pay a fee, commission, or~~  
27 ~~other valuable consideration exceeding \$100 to a person not~~



1 ~~licensed as a public insurance adjuster for referring an insured to~~  
2 ~~the license holder].~~

3 SECTION 21. Subchapter D, Chapter 4102, Insurance Code, is  
4 amended by adding Section 4102.164 to read as follows:

5 Sec. 4102.164. ACCEPTANCE OF REFERRAL PAYMENTS PROHIBITED.

6 (a) A licensed public insurance adjuster may not accept a fee,  
7 commission, or other valuable consideration of any nature,  
8 regardless of form or amount, in exchange for the referral by a  
9 licensed public insurance adjuster of an insured to any third-party  
10 individual or firm, including but not limited to an attorney,  
11 appraiser, umpire, construction company, contractor, or salvage  
12 company.

13 (b) The commissioner shall adopt rules necessary to  
14 implement and enforce this section.

15 SECTION 22. The heading to Section 27.02, Business &  
16 Commerce Code, is amended to read as follows:

17 Sec. 27.02. CERTAIN OFFERS MADE AND INFORMATION PROVIDED IN  
18 CONNECTION WITH INSURANCE CLAIMS ~~[FOR EXCESSIVE CHARGES]~~.

19 SECTION 23. Sections 27.02(a) and (b), Business & Commerce  
20 Code, are amended to read as follows:

21 (a) A person who sells goods or services, including a  
22 contractor, appraiser, estimator, or insurance restoration  
23 contractor, commits an offense if, in connection with a claim for  
24 property loss or damage under a property or casualty insurance  
25 policy:

26 (1) the person advertises or promises to ~~[provide the~~  
27 ~~good or service and to]~~ pay, waive, absorb, rebate, subsidize,

1 credit, or otherwise cover for any reason~~[-~~

2 [~~(A)~~] all or part of any applicable insurance  
3 deductible or other uninsured amount owed by an insured under the  
4 terms of the policy; ~~or~~

5 [~~(B)~~ a rebate in an amount equal to all or part of  
6 ~~any applicable insurance deductible,~~]

7 (2) [~~the good or service is paid for by the consumer~~  
8 ~~from proceeds of a property or casualty insurance policy; and~~

9 [~~(3)~~] the person knowingly provides or causes to be  
10 provided to an insurer any estimate or other statement as to the  
11 cost of repair for the good or service to be provided that has been  
12 increased, inflated, or otherwise manipulated [~~charges an amount~~  
13 ~~for the good or service that exceeds the usual and customary charge~~  
14 ~~by the person for the good or service]~~ by an amount equal to or  
15 greater than all or part of the applicable insurance deductible or  
16 other uninsured amount owed by an insured under the policy; or

17 (3) the person knowingly provides or causes to be  
18 provided to an insurer any false information within any estimate,  
19 bid, proposal, or other statement as to the scope of damage or cost  
20 of repair for the good or service to be provided [~~paid by the person~~  
21 ~~to an insurer on behalf of an insured or remitted to an insured by~~  
22 ~~the person as a rebate]~~.

23 (b) A person who is insured under a property or casualty  
24 insurance policy commits an offense if the person:

25 (1) knowingly submits a claim under the policy based  
26 on conduct [~~charges that are~~] in violation of Subsection (a) [~~of~~  
27 ~~this section~~]; or

1           (2) knowingly allows a claim in violation of  
2 Subsection (a) [~~of this section~~] to be submitted, unless the person  
3 promptly notifies the insurer of the conduct in violation of  
4 Subsection (a) [~~excessive charges~~].

5           SECTION 24. Section 4102.069, Insurance Code, is repealed.

6           SECTION 25. Chapter 541, Insurance Code, as amended by this  
7 Act, applies only to conduct that occurs on or after the effective  
8 date of this Act. Conduct that occurs before the effective date of  
9 this Act is governed by the law as it existed immediately before the  
10 effective date of this Act, and that law is continued in effect for  
11 that purpose.

12          SECTION 26. Subchapter B, Chapter 542, Insurance Code, as  
13 amended by this Act, applies only to a claim for which notice of  
14 claim is provided to an insurer on or after the effective date of  
15 this Act. A claim for which notice of claim is provided to an  
16 insurer before the effective date of this Act is governed by the law  
17 as it existed immediately before the effective date of this Act, and  
18 that law is continued in effect for that purpose.

19          SECTION 27. Chapter 1808, Insurance Code, as added by this  
20 Act, applies only to a claim under an insurance policy delivered,  
21 issued for delivery, or renewed on or after January 1, 2016. A  
22 claim under a policy delivered, issued for delivery, or renewed  
23 before January 1, 2016, is governed by the law as it existed  
24 immediately before the effective date of this Act, and that law is  
25 continued in effect for that purpose.

26          SECTION 28. Chapter 1809, Insurance Code, as added by this  
27 Act, applies only to an insurance policy delivered, issued for

1 delivery, or renewed on or after January 1, 2016.

2 SECTION 29. The repeal by this Act of Section 4102.069,  
3 Insurance Code, does not affect the authority of a person to act  
4 under a temporary certificate issued by the Texas Department of  
5 Insurance under that section before the effective date of this Act.

6 SECTION 30. Sections 4102.103(d) and 4102.158(d),  
7 Insurance Code, as added by this Act, apply only to a contract  
8 entered into or solicitation made on or after the effective date of  
9 this Act.

10 SECTION 31. (a) Except as provided by this section,  
11 Section 4102.104, Insurance Code, as amended by this Act, applies  
12 only to payment for a service performed on or after the effective  
13 date of this Act.

14 (b) Payment for a service performed before the effective  
15 date of this Act or performed after the effective date of this Act  
16 under a contract entered into before the effective date of this Act  
17 is governed by the law as it existed immediately before the  
18 effective date of this Act, and that law is continued in effect for  
19 that purpose.

20 SECTION 32. Section 4102.160, Insurance Code, as amended by  
21 this Act, and Section 4102.164, Insurance Code, as added by this  
22 Act, apply only to a referral made on or after the effective date of  
23 this Act. A referral made before the effective date of this Act is  
24 governed by the law as it existed immediately before the effective  
25 date of this Act, and that law is continued in effect for that  
26 purpose.

27 SECTION 33. The changes in law made by this Act apply only

1 to an offense committed on or after the effective date of this Act.  
2 An offense committed before the effective date of this Act is  
3 governed by the law in effect when the offense was committed, and  
4 the former law is continued in effect for that purpose. For  
5 purposes of this section, an offense was committed before the  
6 effective date of this Act if any element of the offense occurred  
7 before that date.

8 SECTION 34. This Act takes effect September 1, 2015.