

New TX State Law Cracks Down on Roof Scams

No Waiving of Deductibles Bill: Texas HB 2102

A new state law makes it clear that it's illegal for a contractor or roofer to waive an insurance deductible.

“This new law will help further protect consumers. Roofers who waive deductibles are cutting corners. Take your business elsewhere.”

- Texas Insurance Commissioner Kent Sullivan

After a major storm, contractors – including some scam artists – are quick to arrive on the scene. This leads to shoddy repairs, fake contracts, and other problems. The Texas Department of Insurance created a special fraud unit that meets with local officials after a disaster and explains steps they can take to protect residents from contractor scams.

One selling point bad contractors often use is offering to waive or absorb the homeowner's deductible. The contractor then cuts corners, uses lower quality products, or inflates the bill sent to the insurance company to cover the difference.

However, the new law provides that it is a violation of this law if a contractor: pays for, waives, absorbs, rebates, credits or offsets or otherwise assists the insured in any other manner in avoiding monetary payment of the required insurance deductible or provides a good or service knowing that the insured will pay for the good or service with the proceeds of a claim under the policy and without the insurer's consent to do so.

The first full paragraph of the new law states: “A person insured under a property insurance policy



shall pay any deductible applicable to a first-party claim made under the policy” see Texas Insurance Code §707.002. This really has always been the law but has been ignored and not enforced.

The new law creates a Class B misdemeanor offense of 180 days in county jail and a fine of up to \$2000, for

- 1) a **business** who sells goods or services to provide such a good or service in such a prohibited manner (violating contractor),
- 2) an **insured (policyholder)** who commits an offense if the person, in connection with a first party claim knowingly submits or allows a claim to be submitted in violation of subsection c, (the violation section directly above) unless the insured person promptly notifies the insurer of the violation.

Another key provisions is Section 707.004, Reasonable Proof of Payment, which provides that an insurer may refuse to pay a claim for withheld recoverable depreciation or replacement cost holdback until the insurer receives “reasonable proof” of payment of the deductible

by the policyholder. “Reasonable Proof” is set out in the statute as consisting of a: “canceled check, money order under receipt, credit card statement, or copy of an executed installment plan contract or other financing arrangement that requires full payment of the deductible over time.” Tex. Ins. Code §707.004.

The new law also amends the Texas Business and Commerce Code. This section provides that a contract that is reasonably expected to be paid wholly or partly from the proceeds of a claim made under a property insurance policy to provide a good or service of more than \$1000 must contain the following provision in 12 pt. font:

Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of this Texas law for a person or business paid wholly or partly from proceeds of a property insurance claim to knowingly allow the insured person to fail to pay. Or assist the insured person’s failure to pay, the applicable insurance deductible. See SECTION 2. Business & Commerce Code, is amended to read as follows: Section 27.02. “Goods or Services Paid for by Insurance Proceeds: Payment of Deductible Required”

Finally, there is a provision in it (§ 707.003) that the Texas Insurance Commission will be in charge of consumer education about the new law and “shall develop and implement an education program relating to the payment of property insurance deductible.” The new law also set forth the specific, mandatory requirements that the educational program must contain.

Conclusion: Pay your deductible. If a roofer even *suggests* not paying it, look for a new roofer! If they are willing to induce you to commit fraud, who knows what else they’ll do!

If a contractor offers to waive a deductible, report it to the Texas Attorney General’s Consumer Protection Hotline at **1-800-621-0508**.

Sources:

- www.tdi.texas.gov/news/2019/tdi08072019
- www.propertyinsurancecoveragelaw.com/2019/roofingcontractors-texas.com

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