

## **BILL ANALYSIS**

C.S.H.B. 647  
By: Lucio III  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that changes to certain property and casualty insurance policies should be made clear to applicable policyholders and agents. The parties assert that existing notification requirements applicable to such policies often cause confusion for policyholders and are insufficient in notifying agents of policy changes. C.S.H.B. 647 seeks to address this issue by creating and revising requirements for providing notice of certain changes to property and casualty insurance 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. 647 amends the Insurance Code to establish that a change to a property and casualty insurance policy provision on renewal is not a nonrenewal or cancellation if the insurer provides the insured with certain written notice of any material change in each form of the policy offered to the insured on renewal from the form of the policy held immediately before renewal. The bill requires such notice to appear in a conspicuous place in the notice of renewal, clearly indicate each material change to the policy being made on renewal, be written in plain language, and be provided to the insured not later than the 30th day before the renewal date. The bill requires an insurer who elects to make a material change to a policy form on renewal to provide an additional written notice, not later than the 30th day before the earliest renewal date on which the new policy form is used, to each agent of the insurer that clearly indicates each material change being made to the policy form. The bill authorizes an insurer to provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form. The bill expressly requires an insurer, for a personal automobile insurance policy, to comply with statutory provisions relating to the notice required for nonrenewal of certain property and casualty policies and statutory provisions relating to a renewal of certain personal automobile insurance policies written for a term of less than one year. The bill defines "material change" for purposes of these provisions as a change to a policy that, with respect to a prior or existing policy, reduces coverage, changes conditions of coverage, or changes the duties of the insured.

C.S.H.B. 647 exempts an insurer or agent or an employee of an insurer or agent from liability for a notice made in good faith under provisions relating to the declination, cancellation, and nonrenewal of certain property and casualty policies, unless the notice was known to be false or

made with malice or wilful intent to injure any person.

C.S.H.B. 647 replaces the prohibition against an insurer using an endorsement to certain policy forms for a fire insurance and allied lines policy, a residential property insurance policy, or a personal automobile insurance policy that reduces coverage that would otherwise be provided under the policy unless the insured requests the endorsement or the insurer provides the policyholder with a written explanation of the change made by the endorsement by a certain deadline with a prohibition against an insurer using such a policy form or an endorsement to such a policy form that makes a material change to the policy unless the insured requests the material change or the insurer provides the policyholder in a written notice an explanation of the material change that meets the following criteria: appears in a conspicuous place on the notice of the material change, clearly indicates each material change to the policy, is written in plain language, and is provided to the policyholder not later than the 30th day before the date on which the policy expires. The bill authorizes the notice to be provided to the policyholder in a notice of renewal. The bill requires an insurer who elects to make a material change to a policy form or to use an endorsement to make a material change to a policy form to provide an additional written notice, not later than the 30th day before the earliest date on which the new policy form or endorsement is used, to each agent of the insurer that clearly indicates each material change being made to the policy form. The bill authorizes an insurer to provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form. The bill defines "material change" for purposes of these provisions as a change to a policy that, with respect to a prior or existing policy, reduces coverage, changes conditions of coverage, or changes the duties of the insured.

C.S.H.B. 647 replaces the requirement for an insurer that renews a homeowners insurance policy, fire and residential allied lines insurance policy, farm and ranch owners insurance policy, or farm and ranch insurance policy to provide the policyholder with written notice of any difference between each form of the policy offered to the policyholder on renewal and the form of the policy held immediately before renewal with the requirement that such an insurer provide the policyholder with written notice of any material change in each form of the policy offered to the policyholder on renewal from the form of the policy held immediately before renewal. The bill requires the notice to appear in a conspicuous place in the notice of renewal, clearly indicate each material change to the policy being made on renewal, and be provided to the policyholder not later than the 30th day before the renewal date. The bill requires an insurer who elects to make a material change to a policy form on renewal to provide an additional written notice, not later than the 30th day before the earliest renewal date on which the new policy form is used, to each agent of the insurer that clearly indicates each material change being made to the policy form. The bill authorizes an insurer to provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form. The bill defines "material change" for purposes of these provisions as a change to a policy that, with respect to a prior or existing policy, reduces coverage, changes conditions of coverage, or changes the duties of the policyholder.

C.S.H.B. 647 applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2018.

#### **EFFECTIVE DATE**

September 1, 2017.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 647 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Subchapter C, Chapter 551, Insurance Code, is amended by adding Section 551.1055 to read as follows:  
Sec. 551.1055. CHANGES TO POLICY ON RENEWAL.

- (a) Notwithstanding Section 551.103, a change to a policy provision on renewal is not a nonrenewal or cancellation under this subchapter if the insurer provides the insured with written notice in accordance with this section of any difference between each form of the policy offered to the insured on renewal and the form of the policy held immediately before renewal.
- (b) Notice provided under Subsection (a) must:
  - (1) appear in a conspicuous place in the renewal notice;
  - (2) clearly indicate each change to the policy being made on renewal;
  - (3) be written in plain language; and
  - (4) be provided to the insured not later than the 30th day before the renewal date.
- (c) If an insurer elects to change a policy form on renewal, not later than the 30th day before the earliest renewal date on which the new policy form is used, the insurer shall provide written notice to each agent of the insurer that clearly indicates each change being made to the policy.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 551.103, Insurance Code, is amended to read as follows:  
 Sec. 551.103. CANCELLATION. For the purposes of this subchapter, an insurer has canceled an insurance policy if the insurer, without the consent of the insured:

- (1) terminates coverage provided under the policy;
- (2) refuses to provide additional coverage to which the insured is entitled under the policy; or
- (3) except as provided by Section 551.1055, reduces or restricts coverage under the policy by endorsement or other means.

SECTION 2. Subchapter C, Chapter 551, Insurance Code, is amended by adding Section 551.1055 to read as follows:  
Sec. 551.1055. CHANGES TO POLICY ON RENEWAL. (a) In this section, "material change" means a change to a policy that, with respect to a prior or existing policy:

- (1) reduces coverage;
- (2) changes conditions of coverage; or
- (3) changes the duties of the insured.

(b) Notwithstanding Section 551.103, a change to a policy provision on renewal is not a nonrenewal or cancellation under this subchapter if the insurer provides the insured with written notice in accordance with this section of any material change in each form of the policy offered to the insured on renewal from the form of the policy held immediately before renewal.

(c) Notice provided under Subsection (b) must:

- (1) appear in a conspicuous place in the notice of renewal;
- (2) clearly indicate each material change to the policy being made on renewal;
- (3) be written in plain language; and
- (4) be provided to the insured not later than the 30th day before the renewal date.

(d) In addition to the notice to the insured provided under Subsection (b), if an insurer elects to make a material change to a policy form on renewal, not later than the 30th day before the earliest renewal date on which the new policy form is used, the insurer shall provide written notice to each agent of the insurer that clearly indicates each material

change being made to the policy form. An insurer may provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form.

(e) Notwithstanding this section, for a personal automobile insurance policy, an insurer must comply with Sections 551.105 and 551.106(b).

No equivalent provision.

SECTION 3. Section 551.110, Insurance Code, is amended to read as follows:

Sec. 551.110. LIABILITY FOR DISCLOSURE. An insurer or agent or an employee of an insurer or agent is not liable for a notice, statement, or disclosure made in good faith under this subchapter unless the notice, statement, or disclosure was:

- (1) known to be false; or
- (2) made with malice or wilful intent to injure any person.

SECTION 2. Section 2002.001, Insurance Code, is amended to read as follows:

Sec. 2002.001. ENDORSEMENTS REDUCING AMOUNT OF COVERAGE.

SECTION 4. Section 2002.001, Insurance Code, is amended to read as follows:

Sec. 2002.001. POLICY FORM OR ENDORSEMENT MAKING MATERIAL CHANGE TO POLICY ~~[ENDORSEMENTS REDUCING AMOUNT OF COVERAGE]~~. (a) In this section, "material change" means a change to a policy that, with respect to a prior or existing policy:

- (1) reduces coverage;
- (2) changes conditions of coverage; or
- (3) changes the duties of the insured.

(a) An insurer may not use an endorsement to a policy form to which Article 5.35, Subchapter B of this chapter, or Subchapter B, Chapter 2301, applies that reduces coverage that would otherwise be provided under the policy unless:

- (1) the insured requests the endorsement; or
- (2) the insurer provides the policyholder in a written notice an [with a written] explanation of [the change made by] the endorsement that:
  - (A) appears in a conspicuous place on the notice of the endorsement;
  - (B) clearly indicates each change to the policy made by the endorsement;

(b) An insurer may not use a policy form or [an] endorsement to a policy form to which Article 5.35, Subchapter B of this chapter, or Subchapter B, Chapter 2301, applies that makes a material change to [reduces coverage that would otherwise be provided under] the policy unless:

- (1) the insured requests the material change [endorsement]; or
- (2) the insurer provides the policyholder in a written notice an [with a written] explanation of [the change made by] the material change that:
  - (A) appears in a conspicuous place on the notice of the material change;
  - (B) clearly indicates each material change to the policy;

(C) is written in plain language; and  
(D) is provided to the insured not later than  
the 30th day before the date on which the  
policy expires.

(b) Notice required by Subsection (a) may  
be provided to the insured in a renewal  
notice.

(c) If an insurer elects to use an  
endorsement described by Subsection (a),  
not later than the 30th day before the  
earliest date on which the endorsement is  
used, the insurer shall provide written notice  
to each agent of the insurer that clearly  
indicates each change made to the policy  
form by the endorsement.

SECTION 3. The heading to Subchapter C,  
Chapter 2002, Insurance Code, is amended.

SECTION 4. Section 2002.102, Insurance  
Code, is amended to read as follows:  
Sec. 2002.102. NOTICE OF RENEWAL.

(a) An insurer, including a farm mutual  
insurance company, county mutual  
insurance company, Lloyd's plan, or  
reciprocal or interinsurance exchange, that  
renews a homeowners insurance policy, fire  
and residential allied lines insurance policy,  
farm and ranch owners insurance policy, or  
farm and ranch insurance policy must  
provide the policyholder with written notice  
in accordance with this section of any  
difference between each form of the policy  
offered to the policyholder on renewal and  
the form of the policy held immediately  
before renewal.

(b) A notice provided under this section  
must:

(C) is written in plain language; and  
(D) is provided to the policyholder  
[endorsement] not later than the 30th day  
before the date on which the policy expires.

(c) Notice required by Subsection (b) may  
be provided to the policyholder in a notice  
of renewal.

(d) In addition to the notice to the  
policyholder provided under Subsection (b),  
if an insurer elects to make a material  
change to a policy form or use an  
endorsement to make a material change to a  
policy form, not later than the 30th day  
before the earliest date on which the new  
policy form or endorsement is used, the  
insurer shall provide written notice to each  
agent of the insurer that clearly indicates  
each material change being made to the  
policy form. An insurer may provide the  
notice to the agents in a single notice given  
to each agent of the insurer that summarizes  
substantially similar material changes to  
more than one policy form.

SECTION 5. Same as introduced version.

SECTION 6. Section 2002.102, Insurance  
Code, is amended to read as follows:  
Sec. 2002.102. NOTICE OF RENEWAL.

(a) In this section, "material change" means  
a change to a policy that, with respect to a  
prior or existing policy:

- (1) reduces coverage;
- (2) changes conditions of coverage; or
- (3) changes the duties of the policyholder.

(b) An insurer, including a farm mutual  
insurance company, county mutual  
insurance company, Lloyd's plan, or  
reciprocal or interinsurance exchange, that  
renews a homeowners insurance policy, fire  
and residential allied lines insurance policy,  
farm and ranch owners insurance policy, or  
farm and ranch insurance policy must  
provide the policyholder with written notice  
in accordance with this section of any  
material change in [difference between]  
each form of the policy offered to the  
policyholder on renewal from [and] the form  
of the policy held immediately before  
renewal.

(c) [(b)] A notice provided under this  
section must:

- (1) appear in a conspicuous place in the renewal notice;
- (2) clearly indicate each change to the policy being made on renewal;
- (3) be written in plain language; and
- (4) be provided to the policyholder not later than the 30th day before the renewal date.

(c) If an insurer elects to change a policy form on renewal, not later than the 30th day before the renewal date, the insurer shall provide written notice to each agent of the insurer that clearly indicates each change being made to the policy.

(d) The commissioner may adopt rules as necessary to implement this section.

SECTION 5. The change in law made by this Act applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2018. A policy delivered, issued for delivery, or renewed before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2017.

- (1) appear in a conspicuous place in the notice of renewal;
- (2) clearly indicate each material change to the policy being made on renewal;
- (3) be written in plain language; and
- (4) be provided to the policyholder not later than the 30th day before the renewal date.

(d) In addition to the notice to the policyholder provided under this section, if an insurer elects to make a material change to a policy form on renewal, not later than the 30th day before the earliest renewal date on which the new policy form is used, the insurer shall provide written notice to each agent of the insurer that clearly indicates each material change being made to the policy form. An insurer may provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form.

(e) [(e)] The commissioner may adopt rules as necessary to implement this section.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.