

SUBJECT: Including hoses in the definition of appliance for insurance claims

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Seaman, Isett, Eiland, B. Keffer, Taylor, Van Arsdale
1 nay — Oliveira
1 absent — Thompson

WITNESSES: For — Ware Wendall, Texas Watch; Avis Wukasch, Texas Association of Realtors

Against — Beaman Floyd, Allstate, State Farm, USAA, Nationwide, American Insurance Association; Jay Thompson, AFACT; Joe Woods, Property Casualty Insurers Association of America

BACKGROUND: Insurance Code, art. 5.35-4 prohibits insurers from using a prior appliance-related claim as a basis for determining a homeowners insurance rate or for determining whether to issue, renew, or cancel an insurance policy on a specific property if the homeowner properly remediated the claim and had the remediation inspected and certified by an experienced mediator of water damage. This restriction does not apply if the person has made and received payment for three or more appliance-related claims within a three-year period or the property has been the subject of three or more claims within a three-year period.

Texas Administrative Code, Title 28, rule 21.1007, defines an appliance-related claim as a request for indemnification for a loss arising from the discharge or leakage of water or steam from an appliance that is the direct result of the failure of the appliance. An appliance includes an air conditioning unit, heating unit, refrigerator, dishwasher, icemaker, clothes washer, water heater, or disposal. The rule specifies that an appliance-related claim shall not include the failure of a plumbing system or an external attachment to the appliance used to transport water to or from the plumbing system.

DIGEST: CSHB 941 would define, for purposes of Insurance Code, art. 5.35-4, an “appliance” as a household device operated by gas or electric current, including hoses directly attached to the device, and would include air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, water heaters, and disposals under this definition.

The bill would take effect September 1, 2005, and would apply to policies delivered, issued for delivery, or renewed on or after January 1, 2006.

SUPPORTERS SAY: CSHB 941 would protect homeowners from being stigmatized as a result of appliance-related claims by specifying that hoses directly attached to appliances such as washing machines and water heaters are part of the appliance and therefore subject to the same restrictions regarding denial of claims.

Last session, the Legislature enacted SB 127 by Fraser, which expressly was intended to “protect persons and property from being unfairly stigmatized in obtaining residential property insurance by the filing of a water damage claim or claims under a residential property insurance policy.” The bill directed the Texas Department of Insurance to adopt rules to carry out this purpose, but the rules excluded hoses from the definition of appliances. These rules do not meet the intent of the law, which is to guarantee that homeowners are protected from stigma simply because their washing machine or dishwasher overflowed. These common occurrences are easily repairable, and homeowners should not be punished because of a routine appliance failure. Properties and policyholders continue to be stigmatized, partly due to appliance-related claims.

OPPONENTS SAY: Hoses attached to appliances such as washers and dishwashers must be replaced as part of routine maintenance. The provisions of this statute should not apply to maintenance items such as hoses because homeowners can control the risk of water damage by regularly replacing the hoses. If insurers were required to ignore claims resulting from poor routine maintenance, they would have to spread the cost of these claims among all policyholders in the form of higher rates even for those who properly maintain their appliances.

NOTES: The committee substitute differs from the original bill by removing clothes dryer, stove, oven, food warmer and trash compacter from the list of appliances.

