

House Bill 1310

By: Representatives Dunahoo of the 30th, Byrd of the 20th, Gambill of the 15th, Gilligan of the 24th, Cantrell of the 22nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 32 of Title 33 of the Official Code of Georgia Annotated, relating to
2 property insurance, so as to require an appraisal provision in residential and commercial fire
3 and extended coverage insurance policies; to provide guidelines for appraisal of amount of
4 loss, including scope of loss; to define damaged property and depreciation and provide
5 guidelines for calculating depreciation where a property is damaged but not wholly
6 destroyed; to prohibit an insurer from requiring the use of a preferred vendor or contractor;
7 to allow an insurer to recommend the use of a preferred vendor or contractor; to provide for
8 the adjustment and settlement of first-party losses based on replacement cost value and on
9 actual cash value; to provide for related matters; to provide for an effective date and
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 32 of Title 33 of the Official Code of Georgia Annotated, relating to property
14 insurance, is amended in Code Section 33-32-1, relating to standard fire policy, by adding
15 a new subsection to read as follows:

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16 “(c) All fire and extended coverage insurance policies for residential and commercial
17 properties shall contain the following provision (with permission to substitute the word
18 'Company' with a more accurate descriptive term for the insurer):

19 'Appraisal. If you and this Company fail to agree as to the amount of loss, including
20 scope of loss, either party may demand that the amount of loss and scope of loss be set
21 by appraisal. If either party makes a written demand for appraisal, each party shall select
22 a competent appraiser and notify the other party of their appraiser's identity within 20
23 days of receipt of the written demand for appraisal. The appraisers shall select a
24 competent and impartial umpire; but, if after 15 days the appraisers have not agreed upon
25 who will serve as umpire, the umpire shall be appointed by a judge of the court of record
26 in which the property is located. The appraisers shall then appraise the loss. If the
27 appraisers submit written notice of an agreement as to the amount of loss to this
28 Company, such amount shall be as agreed. If the appraisers fail to agree on the amount
29 or scope of loss within 30 days, then the appraisers shall submit their differences along
30 with any supporting documentation to the selected umpire, who shall resolve the
31 differences between the appraisers in accordance with Georgia law and regulations. The
32 appraisers may extend the time to 60 days for which they must agree upon the loss or
33 submit their differences and supporting documents to the umpire, if that extension is
34 agreed to by the appraisers from both parties. A written agreement signed by the umpire
35 and either party's appraiser shall set the amount of the loss, including scope of loss,
36 pursuant to the appraisal process, but shall not preclude either party from exercising its
37 rights under the policy or the law. Each appraiser shall be paid by the party selecting the
38 appraiser. Other expenses of the appraisal and the expenses of the umpire shall be
39 divided and paid in equal shares by you and this Company. If there is an appraisal award,
40 all applicable policy terms, limits, deductibles, and conditions will still apply.”

SECTION 2.

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Said chapter is further amended by adding new Code sections to read as follows:

"33-32-7.

For all fire and extended coverage insurance policies for residential and commercial properties, in determining the amount of loss, an appraiser or umpire shall determine the scope of loss and extent of damage resulting from the claim or occurrence giving rise to the appraisal as well as determine the repair cost, replacement cost, and loss in value of the property.

33-32-8.

(a) For the purposes of this Code section, the term:

(1) 'Damaged property' means a dwelling, structure, personal property, or any other property, except a vehicle, that requires repairs, replacement, restoration, or remediation to reestablish its former condition.

(2) 'Depreciation' means a reduction in the value of a property over time due to age, wear and tear, and deterioration, and includes the cost of goods, materials, labor, and services necessary to replace, repair, or rebuild the damaged property.

(b) An insurance policy covering damaged property may allow for depreciation.

(c) An insurance policy covering damaged property shall provide notice that depreciation may be deducted or withheld, in a form approved by the Commissioner.

(d) If depreciation is applied to a loss for damaged property, the insurer shall provide a written explanation as to how the depreciation was calculated.

(e) Depreciation shall be reasonable and based on a combination of objective criteria and subjective assessment, including the actual condition of the property prior to loss.

64 33-32-9.

65 (a) An insurer shall not require that repairs, replacement, restoration, or remediation be
66 made to an insured's property by a particular preferred vendor or recommended contractor
67 when making a payment on a residential or commercial property damage claim.

68 (b) An insurer shall not recommend the use of a particular preferred vendor or
69 recommended contractor without informing the insured or claimant that the insured or
70 claimant is under no obligation to use the preferred vendor or recommended contractor to
71 complete repairs, replacement, restoration, or remediation of the insured's property.

72 33-32-10.

73 (a) The following shall apply to fire and extended coverage insurance policies providing
74 adjustment and settlement of first-party losses on a replacement cost value basis or on an
75 actual cash value basis:

76 (1) An insurer is required to include general contractors' overhead and profit in payments
77 for losses when the services of a general contractor are reasonably foreseeable; and

78 (2) An insurer is not allowed to include the deduction of prospective contractor
79 overhead, prospective contractor profit, and sales tax in determining the actual cash value
80 of an adjustment or settlement.

81 (b) The following shall apply to fire and extended coverage insurance policies providing
82 adjustment and settlement of first-party losses on a replacement cost value basis:

83 (1) If a loss requires repair or replacement of an item or part, any consequential physical
84 damage incurred in making such repair or replacement not otherwise excluded by the
85 policy shall be included in the loss. The insured shall not be required to pay for
86 betterment or any other cost except for the applicable deductible; and

87 (2) If a loss requires replacement of items and the replaced items do not match in quality,
88 color, or size, the insurer shall replace all items in the area to conform to a reasonably

89 uniform appearance. The requirement of this paragraph applies to interior and exterior
90 losses. The insured shall not bear any cost in excess of the applicable deductible.

91 (c) The following shall apply to fire and extended coverage insurance policies providing
92 adjustment and settlement of first-party losses on an actual cash value basis:

93 (1) Insurers shall determine the actual cash value based on the replacement cost of the
94 property at the time of loss less depreciation, if any. The insurer shall provide a copy of
95 the claim file worksheets detailing any and all deductions for depreciation; and

96 (2) In cases in which the insured's interest is limited, because the property has nominal
97 or no economic value or a value disproportionate to replacement cost less depreciation,
98 the determination of the actual cash value as set forth in this subsection is not required.
99 In such cases, the insurer shall provide, upon the insured's request, a written explanation
100 of the basis for limiting the amount of recovery along with the amount payable under the
101 policy."

102 **SECTION 3.**

103 This Act shall become effective upon its approval by the Governor or upon its becoming law
104 without such approval and shall apply to all insurance policies issued, delivered, issued for
105 delivery, or renewed on or after July 1, 2022.

106 **SECTION 4.**

107 All laws and parts of laws in conflict with this Act are repealed.