



Dear Percy,

There has been a **huge amount of misinformation** circulating on social media about the impact of **HB 1774 (the hailstorm bill)** as it relates to the catastrophic events we are experiencing due to Hurricane Harvey. Our friends at TSLA put out a good explanation of accurate information to help spread the right facts, so we will copy their explanation here. HB 1774 **does not change the insurance claims process**. A person making a claim with their insurance company after September 1, 2017 will go through the same process as a person making a claim before September 1, 2017.

The new law applies *only to a lawsuit that is filed against an insurance company by a policyholder when the policyholder's insurance claim is not timely paid or is underpaid, or when the insurance company acts in bad faith in dealing with the policyholder's claim.*

Lawsuits are the exception, not the rule. The vast majority of Texans will go through the regular insurance claims process without needing to file a lawsuit.

Texans continue to have the strongest consumer protections in the nation against insurance companies. This includes the full recovery of amounts owed under an insurance policy, plus penalty interest, court costs, and attorney fees. Additionally, if the insurance company acts fraudulently or in bad faith, Texans may recover triple the amount of their actual damages, which is unchanged by the new statute.

The primary purpose of the new statute is to require written notice of a dispute before a lawsuit is filed. If a lawsuit is filed, it would happen months or years after the initial claim was made with the insurance company. Nothing in the new law passed by the Legislature earlier this year requires that the initial insurance claim be made in writing or by a specific date.

- This requirement for a written pre-suit notice (not pre-claim notice) to the insurance company ensures the company is aware of its policyholder's complaint and has had an opportunity to adequately address that complaint before being sued.

Furthermore, the new law will not apply to most claims or lawsuits arising from Harvey, because most of the policyholders' claims will be for damage caused by flooding. These claims will be made under the federal flood insurance program and governed by federal law.

Similarly, the new law will not apply to lawsuits pursued against the Texas Windstorm Insurance Association (TWIA), which is subject to an entirely different statute governing post-disaster lawsuits. TWIA provides insurance for many people affected by Harvey. The new law is designed to do two important things:

1. Discourage the feeding frenzy by lawyers and contractors following natural events occurring in Texas over the past several years. These unscrupulous actors have taken advantage of thousands of hard-working Texans over the past several years.
2. Encourage out-of-state insurance adjusters to come work in Texas following a massive disaster like Harvey. In the following days and weeks, it will be critically important for out-of-state adjusters to work in Texas to ensure that insurance claims are evaluated and paid in a timely manner.

In sum, the new law does not affect the claims process. Instead, it affects only the lawsuits that sometimes follow the claims process. Furthermore, it does not create a new deadline for action by policyholders. If we can be of any assistance, please call ABM Insurance & Benefit Services, Inc. at 800-362-2809.

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