

April 23, 2015

Hon. Kevin Eltife, Chair  
Senate Committee on Business and Commerce  
Texas State Senate  
Sam Houston Building 370  
Austin, TX

Re: SB 1628 (Taylor) - OPPOSE

Dear Chair Eltife:

We are writing to express our strong opposition to Senate Bill 1628 (Taylor). SB 1628 will leave Texas property owners unprotected in situations where an entity acting with or for an insurance company fails to obey Texas laws when inspecting, reporting on, adjusting or estimating damage or paying or denying an insurance claim.

A recent *60 Minutes* segment aired the fact that damage inspection reports and estimates on homes impacted by 2012's Superstorm Sandy were falsified in order to justify insurance claim denials. As a result, an unknown number of property owners received too little or no insurance benefits to cover repairs and rebuilding. The economic and human toll of the resulting underpayments has been devastating to coastal regions in the Northeast.

It is important that the actions of claim adjusters and vendors retained or directed by insurers remain subject to the procedural requirements set forth in Section 541.002(2) of the Texas Insurance Code. These requirements are crucial to ensuring that insurers abide by their duty to act in good faith and communicate with their policyholders during the adjustment of a claim. By removing "[an] individual employed by an insurer as an adjuster or a third-party individual or entity engaged by an insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim" from Section 541.002(2), SB 1628 insulates the insurer from liability for any fraudulent, unfair, or illegal (*i.e.*, "bad faith") conduct by their vendors.

Texas has more than its share of natural disasters, from hailstorms, to wildfires, floods and hurricanes. Insurance to fund recoveries after these events is a necessary component of financial security and piece of mind for Texas property owners and fundamental to the health of the state's economy. The modern trend in insurance, as in most industries, is staff reductions and outsourcing. The majority of property damage claims are adjusted by freelance adjusters, estimators, engineers and firms that are independent from the insurers that retain them. Insurers are delegating damage estimating and adjusting to these outside professionals, and it is critical that they remain under the ambit of Texas' unfair claim practices laws.

SB 1628 is an ill-advised initiative and we respectfully urge you to oppose it.

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#### Programs

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*Roadmap to Recovery™*

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“We” are United Policyholders (“UP”), a non-profit 501(c) (3) organization founded in 1991 that is a voice and an information resource for insurance consumers in all 50 states. Donations, foundation grants and volunteer attorneys and staff in all 50 states, support the organization’s work. UP does not sell insurance or accept funding from insurance companies.

UP has served Texas home and business owners after hailstorms, hurricanes and wildfires since 1992. After the 2011 Central Texas Wildfires UP was part of the Bastrop Long Term Recovery effort and hosted educational workshops for impacted residents in coordination with the Texas Department of Insurance. We maintain a consumer help library for Texas residents at [www.uphelp.org/state-by-state/texas](http://www.uphelp.org/state-by-state/texas).

UP’s work is divided into three program areas: Roadmap to Recovery™ (disaster recovery and claim help), Roadmap to Preparedness (insurance and financial literacy and disaster preparedness), and Advocacy and Action (advancing pro-consumer laws and public policy through Amicus Briefs, legislative advocacy, and regulatory enforcement). UP hosts a library of previous Amicus Briefs, news, tips, sample forms and articles on commercial and personal lines insurance products, coverage, and the claims process at [www.uphelp.org](http://www.uphelp.org)

Thank you for your time and consideration of this letter. Please let us know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Amy Bach". The signature is written in a cursive, flowing style.

Amy Bach, Esq.  
Executive Director  
United Policyholders

cc. Dan Wade, Esq.  
Staff Attorney  
United Policyholders