

## **Texas property owners - don't be fooled by an anti-lawyer spin campaign on SB 1628**

If you own a business or home in the state of Texas, take a few minutes to make your voice heard in opposition to [SB 1628 \(Taylor\)](#). This bill guts the law that protects a property owner's rights to a fair insurance settlement where an insurer outsources the adjustment of their claim. Outsourcing is where an insurance company hires outside contractors to fulfill their legal duty to a claimant to adjust and settle their claim fairly and promptly. But regardless of whether an insurer handles claims "in-house" by assigning employees to adjust them, or by hiring outside vendors – the insured is entitled to the full protection of the laws in the state where they paid for insurance protection. When it comes to handling an insurance claim fairly and in compliance with the law, the buck always stops at the insurer – regardless of whether they outsource a function or handle it themselves. The duty to handle claims fairly and in good faith has long been held to be "non-delegable." See, e.g., *Natividad v. Alexis, Inc.*, 875 S.W.2d 695 (1994).

Just as in many other industries, the trend in claim adjusting is for insurance companies to lay off staff adjusters and replace them with outside contractors. This is no time to immunize people and businesses from liability for unfair insurance practices – just because an insurance company hired them as a paid claim adjuster. SB 1628 essentially exempts insurance company vendors from Texas laws and regulations on fair claim handling by changing the definition of "person" to exclude independent adjusters and engineers from the scope of Texas' unfair claim handling regulations. [UP has filed an opposition with Senator Taylor on this point](#). [As an NFIP claim handling vendor scandal](#) has proved, outsourcing claims adjusting can be problematic and yield inconsistent and improper settlements. Insurers must be accountable for the claims handling activities of those they hire. Accountability comes with legal liability. Legal immunity erodes accountability. SB 1628 erodes insurer accountability. UP will remain engaged with [other advocates](#) in Texas to oppose this bill moving forward as written.

Last week, the insurance industry-backed Senate Bill [1628 \(Taylor\)](#) was approved in committee and is

moving toward passage. Trotting out their standard emotional pitch – insurers are making the false argument that all current law does is line the pockets of greedy lawyers. Property owners need to stop falling for that line. It’s just not true. Current law holds insurance companies accountable for fulfilling their obligations to property owners – regardless of whether they adjust a claim using a staff adjuster or an outsourced, independent contractor adjuster. United Policyholders, Texas Watch, TAPIA and many other advocate allies are opposing this bill. But it is moving forward over our objections. Texas property owners – don’t be fooled. [Register your opposition today by calling your state representatives.](#)

This bill would make it virtually impossible for a business or property owner to enforce their rights in situations where they file an insurance claim for damage but get underpaid and hung out to dry, and the person responsible for the bad behavior was an independent contractor working for their insurance company but not an employee of their insurance company. The ostensible justification for SB 1628 is that litigation over insurance claims in Texas is too costly and too frequent. This is just wrong. There has been extensive tort reform in Texas and if anything, rights need to be restored – not further eroded.

Towing the company line, a supporter of the bill in the Senate said this: “[When overzealous trial lawyers abuse the system, it forces premiums higher and burdens all consumers. \(SB 1628\) will help keep a few greedy lawyers from driving insurances prices up for Texas homeowners.](#)” Ironically, the bill is touted as a consumer protection measure, but [Tort reform advocates have been espousing this unsubstantiated view for decades.](#) As [UP’s 50-State Bad Faith Survey](#) reveals, policyholders fare much better in states with greater consumer protections, and legal remedies and insurance companies continue to offer competitive pricing and remain profitable in those markets.