

By: Burnam

H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

relating to required procedures for certain third-party claims under motor vehicle liability insurance policies; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.56A to read as follows:

Art. 21.56A. THIRD-PARTY CLAIMS PROCEDURES UNDER MOTOR VEHICLE INSURANCE COVERAGE

Sec. 1. DEFINITIONS. In this article:

(1) "Claimant" means a third-party claimant under a motor vehicle insurance policy.

(2) "Insurer" means a person who delivers, issues for delivery, or renews a motor vehicle liability insurance policy in this state. The term includes a reciprocal or interinsurance exchange, a county mutual insurance company, or a Lloyd's plan.

(3) "Motor vehicle" means a private passenger or commercial motor vehicle, including a motorcycle.

Sec. 2. APPLICATION. This article applies only to a third-party claim for property damage to the claimant's motor vehicle.

Sec. 3. INSURER RESPONSE TO NOTICE OF CLAIM. (a) On notification by a claimant to an insurer of a claim against a policyholder of the insurer for property damage to the claimant's

1 motor vehicle, the insurer shall respond to the claimant as
2 provided by this article. Except as provided by Subsection (c) of
3 this section, not later than the 15th business day after the date on
4 which the insurer is notified of the claim by the claimant and
5 receives all items, statements, and forms required by the insurer,
6 the insurer must respond to the claimant in writing and must state:

7 (1) whether the insurer admits or denies liability for
8 the claim or why the insurer cannot admit or deny liability for the
9 claim; and

10 (2) if the insurer does admit liability for the claim,
11 the percentage share of liability that the insurer does admit.

12 (b) If the insurer denies all or a percentage of liability
13 for the claim, the insurer shall state in writing the factual bases
14 under which it denies liability.

15 (c) On notification in writing to a claimant of the specific
16 reason for the delay, an insurer may extend the 15-day period
17 imposed under Subsection (a) of this section for an additional
18 period not to exceed 45 days.

19 Sec. 4. APPRAISAL OF PROPERTY DAMAGE. (a) The insurer shall
20 provide for an appraisal of the property damage to the claimant's
21 motor vehicle. Unless the claimant requests a delay in writing, the
22 appraisal required under this subsection must be completed not
23 later than the seventh business day after the applicable date under
24 Section 3(a) or (c) of this article.

25 (b) An appraisal provided under this section must specify
26 the amount necessary to repair the property damage to the vehicle.

27 Sec. 5. STATEMENT OF RIGHTS. (a) On receipt of notification

1 of a claim by a claimant, the insurer shall send the claimant a
2 written statement of the claimant's rights under this article. The
3 insurer must send the statement not later than the seventh business
4 day after the date on which the insurer is notified by the claimant.

5 (b) The commissioner by rule shall specify the form of the
6 statement required under this section.

7 Sec. 6. VIOLATION; ADMINISTRATIVE PENALTY. (a) An insurer
8 commits a violation of this code if the insurer fails or refuses to
9 comply with the requirements imposed under this article.

10 (b) The commissioner may impose an administrative penalty
11 under Chapter 84 for a violation under this section.

12 Sec. 7. CIVIL ACTION; DAMAGES. (a) A claimant may bring an
13 action for a violation of this article if the insurer:

14 (1) fails to comply with the requirements imposed
15 under Section 3 or 4 of this article;

16 (2) denies all or a percentage of liability for the
17 claim without a reasonable basis for the denial of liability; or

18 (3) appraises the property damage to the motor vehicle
19 in an amount insufficient to repair that damage without a
20 reasonable basis for the amount of the appraisal.

21 (b) A claimant who prevails in a cause of action brought
22 under this section is entitled to recover:

23 (1) the amount necessary to repair the property damage
24 to the motor vehicle without regard to whether the insurer would
25 otherwise be obligated to pay the claim;

26 (2) a penalty equal to 12 percent of the amount
27 recovered under Subdivision (1) of this subsection; and

1 (3) reasonable attorney's fees.

2 Sec. 8. EFFECT ON FIDUCIARY DUTIES. This article does not
3 create new fiduciary relationships or duties or affect fiduciary
4 relationships or duties in effect on September 1, 2003.

5 SECTION 2. Article 21.56A, Insurance Code, as added by this
6 Act, applies only to a claim brought under a motor vehicle insurance
7 policy that is delivered, issued for delivery, or renewed on or
8 after January 1, 2004. A claim brought under a policy that is
9 delivered, issued for delivery, or renewed before January 1, 2004,
10 is governed by the law as it existed immediately before the
11 effective date of this Act, and that law is continued in effect for
12 that purpose.

13 SECTION 3. This Act takes effect September 1, 2003.