

By: Smithee

H.B. No. 1085

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of the commissioner of insurance to adopt  
3 claim requirements and issue emergency orders to address an  
4 insurer's unreasonable delays in claims handling.

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

6 SECTION 1. Article 21.55, Insurance Code, is amended by  
7 adding Section 9 to read as follows:

8 Sec. 9. UNREASONABLE DELAYS; EMERGENCY ORDERS. (a) The  
9 commissioner by order may impose claim response requirements other  
10 than those prescribed by Sections 2, 3, and 4 of this article on an  
11 insurer that has a record of unreasonable delays in claims  
12 handling. In determining whether an insurer's delay is unreasonable  
13 for purposes of this section, the commissioner shall consider:

14 (1) justified complaints received by the department  
15 regarding the insurer;

16 (2) the timeliness of the insurer's response to claims  
17 that may require service arrangements to prevent loss to property;

18 (3) factors that may reasonably affect claim response,  
19 including the occurrence of a natural disaster and availability of  
20 licensed adjusters in the area; and

21 (4) other analogous criteria determined to be  
22 reasonable by the commission.

23 (b) If the commissioner issues an emergency order under  
24 Subsection (a) of this section, the commissioner shall provide the

1 insurer reasonable notice and opportunity to be heard, except that  
2 notice is not required if the commissioner determines that a delay  
3 in issuing an order will cause irreparable harm. The commissioner  
4 shall adopt rules as necessary to identify claims subject to this  
5 standard.

6 (c) If the commissioner determines that a delay will cause  
7 irreparable harm and issues an order without notice to the insurer,  
8 the commissioner shall provide the insurer with an opportunity to  
9 be heard not later than the fifth day after the date on which the  
10 order is issued.

11 (d) The commissioner shall adopt rules to govern procedures  
12 under which an insurer made subject to claim response requirements  
13 under Subsection (a) of this section may petition for removal of  
14 those requirements.

15 (e) An insurer that is not in compliance with the claim  
16 response requirements established by the commissioner under this  
17 section shall pay damages and attorney's fees as provided by  
18 Section 6 of this article.

19 SECTION 2. Not later than the 60th day after the effective  
20 date of this Act, the commissioner of insurance shall adopt rules as  
21 required by Section 9, Article 21.55, Insurance Code, as added by  
22 this Act.

23 SECTION 3. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2003.