

By: Taylor

H.B. No. 1706

Substitute the following for H.B. No. 1706:

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C.S.H.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the recovery of certain costs and payments relating to
3 losses covered by personal automobile insurance.

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

5 SECTION 1. Subchapter E, Chapter 21, Insurance Code, is
6 amended by adding Article 21.79H to read as follows:

7 Art. 21.79H. RECOVERY OF CERTAIN COSTS FROM THIRD PARTY.

8 (a) This article applies to any insurer who delivers, issues for
9 delivery, or renews a private passenger automobile policy of
10 insurance in this state, including an exchange operating under
11 Chapter 942, or a mutual, reciprocal, association, Lloyd's plan, or
12 other insurer.

13 (b) In this article, "brings an action" has the meaning
14 described by Article 21.79G(e) of this code.

15 (c) An insurer that brings an action against a responsible
16 third party or that party's insurer relating to a loss covered under
17 a private passenger automobile insurance policy is entitled to
18 recover, in addition to payments made by the insurer or insured, the
19 costs of bringing the action, including reasonable attorney's fees
20 and court costs.

21 SECTION 2. Article 5.06-3, Insurance Code, is amended by
22 amending Subsection (c) and adding Subsection (i) to read as
23 follows:

24 (c) The benefits required by this Act shall be payable

1 without regard to the fault or non-fault of the named insured or the
2 recipient in causing or contributing to the accident, and without
3 regard to any collateral source of medical, hospital, or wage
4 continuation benefits. Except as provided by Subsection (i) of
5 this article, an [An] insurer paying benefits pursuant to this Act
6 shall have no right of subrogation and no claim against any other
7 person or insurer to recover any such benefits by reason of the
8 alleged fault of such other person in causing or contributing to the
9 accident.

10 (i) An insurer paying benefits pursuant to this Act,
11 including a county mutual insurance company, shall have a right of
12 subrogation and a claim against a person causing or contributing to
13 the accident if, on the date of loss, financial responsibility as
14 required by Chapter 601, Transportation Code, has not been
15 established for a motor vehicle involved in the accident and
16 operated by that person or the motor vehicle operated by that person
17 was insured by an insurer not authorized to engage in business in
18 this state.

19 SECTION 3. The change in law made by this Act applies only
20 to an action commenced on or after January 1, 2004. An action
21 commenced before that date is governed by the law as it existed
22 immediately before the effective date of this Act, and that law is
23 continued in effect for that purpose.

24 SECTION 4. The change in law made by this Act to Article
25 5.06-3, Insurance Code, applies only to an insurance policy
26 delivered, issued for delivery, or renewed on or after January 1,
27 2004. A policy delivered, issued for delivery, or renewed before

1 January 1, 2004, is governed by the law as it existed immediately
2 before the effective date of this Act, and that law is continued in
3 effect for that purpose.

4 SECTION 5. This Act takes effect September 1, 2003.