

By: Taylor

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 shall  
11 have a right of subrogation and a claim against a person causing or  
12 contributing to the accident if, on the date of loss, financial  
13 responsibility as required by Chapter 601, Transportation Code, has  
14 not been established for a motor vehicle involved in the accident  
15 and operated by that person or the motor vehicle operated by that  
16 person was insured by an insurer not authorized to engage in  
17 business in this state.

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

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

H.B. No. 1706

1 before the effective date of this Act, and that law is continued in  
2 effect for that purpose.

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