

1-1 By: Solomons (Senate Sponsor - Fraser) H.B. No. 2198  
1-2 (In the Senate - Received from the House May 19, 2003;  
1-3 May 20, 2003, read first time and referred to Committee on State  
1-4 Affairs; May 22, 2003, reported favorably by the following vote:  
1-5 Yeas 5, Nays 0; May 22, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the certification of maximum medical improvement and  
1-9 the impairment rating assigned to an employee in a claim for  
1-10 workers' compensation benefits.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 408.123, Labor Code, is amended by  
1-13 adding Subsections (d), (e), (f), and (g) to read as follows:

1-14 (d) Except as provided in Subsections (e), (f), and (g), the  
1-15 first valid certification of maximum medical improvement and the  
1-16 first valid assignment of impairment rating to an employee are  
1-17 final if the certification of maximum medical improvement and/or  
1-18 the assigned impairment rating is not disputed within 90 days after  
1-19 written notification of the maximum medical improvement and/or  
1-20 assignment of impairment rating is provided to the claimant and the  
1-21 carrier by verifiable means.

1-22 (e) The first certification of maximum medical improvement  
1-23 and/or impairment rating may be disputed after the 90-day period  
1-24 if:

1-25 (1) there is compelling medical evidence establishing  
1-26 the following:

1-27 (A) a significant error on the part of the  
1-28 certifying doctor in applying the appropriate American Medical  
1-29 Association Guides and/or calculating the impairment rating;

1-30 (B) a clear misdiagnosis or a previously  
1-31 undiagnosed medical condition; or

1-32 (C) prior improper or inadequate treatment of the  
1-33 injury which would render the certification of maximum medical  
1-34 improvement or impairment rating invalid; or

1-35 (2) there are other compelling circumstances as  
1-36 established by commission rule.

1-37 (f) If an employee has not been certified as having reached  
1-38 maximum medical improvement before the expiration of 104 weeks from  
1-39 the date on which income benefits begin to accrue or the expiration  
1-40 of the date of any extension under Section 408.104, the impairment  
1-41 rating assigned after the end of the 104 weeks or after the end of  
1-42 the extended period under Section 408.104 is final if the  
1-43 impairment rating is not disputed within 90 days after written  
1-44 notification of the maximum medical improvement and/or assignment  
1-45 of impairment rating is provided to the claimant and the carrier by  
1-46 verifiable means.

1-47 (g) If a disputed certification of maximum medical  
1-48 improvement or assignment of impairment rating is finally modified,  
1-49 overturned, or withdrawn, the first subsequent certification and  
1-50 assignment becomes final if it is not disputed within 90 days after  
1-51 written notification of maximum medical improvement and/or  
1-52 assignment of impairment rating is provided to the claimant and the  
1-53 carrier by verifiable means.

1-54 SECTION 2. (a) This Act applies to certifications of  
1-55 maximum medical improvement and assignment of impairment ratings on  
1-56 or after the effective date of this statute.

1-57 (b) This Act takes effect immediately if it receives a vote  
1-58 of two-thirds of all the members elected to each house, as provided  
1-59 by Section 39, Article III, Texas Constitution. If this Act does  
1-60 not receive the vote necessary for immediate effect, this Act takes  
1-61 effect September 1, 2003.

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