

## **BILL ANALYSIS**

C.S.H.B. 686

By: Rose

Insurance

Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Upon passage of Proposition 12 by Texas voters in the Fall of 2003, some Texas physicians and health care providers had lawsuits filed against them for the first time in their careers. Although most of these suits were subsequently dropped or non-suited, many of these physicians and health care providers experienced an increase in their professional liability insurance solely because of these suits. CSHB 686 prohibits an insurer from using a lawsuit filed against a physician and health care provider to set premiums if the lawsuit was dismissed by the claimant or non-suited.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Article 5.15-1, Insurance Code, by adding Section 12, Subsection (a) and Subsection (b) . Subsection (a) prohibits an insurer from considering a lawsuit to set a physician's or health care provider's professional liability rates if (1.) the lawsuit was dismissed by the claimant or nonsuited; and (2.) no payment was made to the claimant under settlement agreement.

Subsection (b) requires an insurer to issue a refund to a physician or health care provider in the amount of the increase in premiums paid for professional liability rates due to a lawsuit that was dismissed or nonsuited without payment to the claimant under a settlement agreement. Requires the insurer to issue such refund on or before the 30th day after the insurer receives written evidence.

SECTION 2. Prospective Application: This act applies to insurance policies delivered, issued for delivery, or renewed on or after January 1, 2006. An insurance policy issued before January 1, 2006 is governed by the law in effect before the effective date of this act, and that law continues in effect for this purpose.

SECTION 3. Effective date: September 1, 2005.

### **EFFECTIVE DATE**

September 1, 2005. This Act applies beginning with January 1, 2006.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original by adding language stating that for an insurer to be prohibited from considering a dismissed or nonsuited lawsuit in the setting of premiums and for the issuance of refunds there can not be payment to the claimant under a settlement agreement.