

AN ACT

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

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

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

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

(a) This article applies to any insurer that delivers, issues for delivery, or renews a private passenger automobile insurance policy in this state, including a county mutual, a reciprocal or interinsurance exchange, or a Lloyd's plan.

(b) An insurer that brings suit or takes other action described by Section 542.202 of this code against a responsible third party relating to a loss that is covered under a private passenger automobile insurance policy issued by the insurer and for which the responsible third party is uninsured is entitled to recover, in addition to payments made by the insurer or insured, the costs of bringing the suit or taking the action, including reasonable attorney's fees and court costs.

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

(c) The benefits required by this Act shall be payable without regard to the fault or non-fault of the named insured or the

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

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

16 SECTION 3. The change in law made by this Act applies only
17 to an action commenced on or after January 1, 2006. An action
18 commenced before that date is governed by the law as it existed
19 immediately before the effective date of this Act, and that law is
20 continued in effect for that purpose.

21 SECTION 4. The change in law made by this Act to Article
22 5.06-3, Insurance Code, applies only to an insurance policy
23 delivered, issued for delivery, or renewed on or after January 1,
24 2006. A policy delivered, issued for delivery, or renewed before
25 January 1, 2006, is governed by the law as it existed immediately
26 before the effective date of this Act, and that law is continued in
27 effect for that purpose.

1 SECTION 5. This Act takes effect September 1, 2005.

H.B. No. 1572

President of the Senate

Speaker of the House

I certify that H.B. No. 1572 was passed by the House on May 10, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1572 was passed by the Senate on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor