

BILL ANALYSIS

C.S.S.B. 1812
By: Duncan
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law provides requirements for the prompt payment of first-party claims including life insurance and provides that if a claim is not paid within 60 days, an insurer can be held liable for damages, including interest at 18 percent and reasonable attorney's fees. If a life insurer has two or more bona fide claimants to the death benefits of a life policy, the life insurer typically will have to file an interpleader within 60 days in order to avoid the penalties. Additionally, Section 542.058, Insurance Code, is in conflict with Section 1103.102(b), which provides that an insurer issuing a life insurance policy is not required to pay policy proceeds if the insurer receives notice of a bona fide adverse claim.

A common law exception to Section 542.058 was recognized for contested life insurance claims until the case of *State Farm Life Ins. Co. v. Martinez*, 216 S.W.3d 799 (Tex. 2007). In this case, the court ruled that the common law exception did not survive the last codification of the statute. Absent this exception, a life insurer will have to file an interpleader in every situation in which a bona fide adverse interest exists because these situations can rarely, if ever, be resolved within 60 days.

C.S.S.B. 1812 requires a life insurer that receives notice of an adverse, bona fide claim to all or part of the proceeds of the policy before the applicable payment deadline to pay the claim or properly file an interpleader action and tender the benefits into the registry of the court not later than the 90th day after the date the insurer receives all items, statements, and forms reasonably requested and required under provisions relating to the receipt of notice of a claim.

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

C.S.S.B. 1812 amends the Insurance Code to require a life insurer that receives notice of an adverse, bona fide claim to all or part of the proceeds of a life insurance policy before the applicable payment deadline to pay the claim or properly file an interpleader action and tender the benefits into the registry of the court not later than the 90th day after the date the insurer receives all items, statements, and forms reasonably requested and required under provisions relating to the receipt of notice of a claim. The bill requires a life insurer that delays payment of the claim or the filing of an interpleader and tender of policy proceeds for more than 90 days to pay damages and other items as provided by provisions relating to liability for violation of prompt payment of claims until the claim is paid or an interpleader is properly filed.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1812 differs from the original by adding language specifying that the requirement for a life insurer to pay a claim extends to a life insurer that receives notice of an adverse, bona fide claim to all or part of the proceeds of the policy before the applicable payment deadline. The substitute adds provisions not in the original relating to the filing of an interpleader action as an alternative to paying a claim and requiring the life insurer to tender the policy benefits into the registry of the court. The substitute omits a second deadline in the original relating to an insurer's receipt of notice of an adverse claim.