

By: Alonzo

H.B. No. 198

A BILL TO BE ENTITLED

AN ACT

relating to certain unfair practices in the settlement of insurance claims involving noneconomic damages.

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

SECTION 1. Subchapter B, Chapter 541, Insurance Code, is amended by adding Section 541.0601 to read as follows:

Sec. 541.0601. UNFAIR SETTLEMENT PRACTICES IN RELATION TO CERTAIN DAMAGES. (a) In this section:

(1) "Artificial intelligence application" means a computer application that mimics human thought and cognitive processes to solve complex problems.

(2) "Noneconomic damages" means damages awarded for the purpose of compensating a claimant for physical pain and suffering, mental or emotional pain or anguish, loss of consortium, disfigurement, physical impairment, loss of companionship and society, inconvenience, loss of enjoyment of life, injury to reputation, and all other nonpecuniary losses of any kind other than exemplary damages.

(b) An insurer may not settle or adjust a claim by an insured or beneficiary that is, in whole or part, for compensation for noneconomic damages without a complete review of the claim by an individual who is authorized to evaluate the claim based on the facts of the claim and the individual's judgment.

(c) It is an unfair method of competition or an unfair or

1 deceptive act or practice in the business of insurance to evaluate a
2 claim described by Subsection (b) using:

3 (1) an artificial intelligence application or other
4 computer software application; or

5 (2) any other method without the complete review of
6 the claim by an individual as required by Subsection (b).

7 (d) This section applies to a claim made by a third party
8 asserting one or more claims against an insured covered under a
9 liability insurance policy.

10 SECTION 2. Section 542.003(b), Insurance Code, is amended
11 to read as follows:

12 (b) Any of the following acts by an insurer constitutes
13 unfair claim settlement practices:

14 (1) knowingly misrepresenting to a claimant pertinent
15 facts or policy provisions relating to coverage at issue;

16 (2) failing to acknowledge with reasonable promptness
17 pertinent communications relating to a claim arising under the
18 insurer's policy;

19 (3) failing to adopt and implement reasonable
20 standards for the prompt investigation of claims arising under the
21 insurer's policies;

22 (4) not attempting in good faith to effect a prompt,
23 fair, and equitable settlement of a claim submitted in which
24 liability has become reasonably clear;

25 (5) compelling a policyholder to institute a suit to
26 recover an amount due under a policy by offering substantially less
27 than the amount ultimately recovered in a suit brought by the

1 policyholder;

2 (6) failing to maintain the information required by
3 Section 542.005;

4 (7) using an artificial intelligence application,
5 other computer software application, or other method to evaluate a
6 claim in violation of Section 541.0601; or

7 (8) [~~(7)~~] committing another act the commissioner
8 determines by rule constitutes an unfair claim settlement practice.

9 SECTION 3. The change in law made by this Act applies only
10 to a claim that is filed on or after the effective date of this Act.
11 A claim that is filed before the effective date of this Act is
12 governed by the law as it existed at the time the claim was filed,
13 and that law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2009.