

By: Smithee

H.B. No. 2733

A BILL TO BE ENTITLED

AN ACT

1
2 relating to recovery under uninsured and underinsured motorist
3 insurance coverage.

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

5 SECTION 1. Subchapter C, Chapter 1952, Insurance Code, is
6 amended by adding Sections 1952.1061, 1952.1062, and 1952.1063 to
7 read as follows:

8 Sec. 1952.1061. NOTICE OF CLAIM. A claimant provides
9 notice of a claim, including notice for the purposes of Subchapter
10 D, Chapter 541, and Subchapter B, Chapter 542, for uninsured or
11 underinsured motorist coverage by providing written notification
12 to the insurer that reasonably informs the insurer of the facts of
13 the claim.

14 Sec. 1952.1062. LEGAL DETERMINATION NOT PREREQUISITE TO
15 RECOVERY. (a) An insurer may not require as a prerequisite to
16 asserting a claim under uninsured or underinsured motorist coverage
17 a judgment or other legal determination establishing the other
18 motorist's liability or uninsured or underinsured status. A
19 judgment or other legal determination described by this subsection
20 is not a prerequisite to having a claim for the purposes of Chapters
21 541 and 542.

22 (b) An insurer may not require as a prerequisite to payment
23 of benefits under uninsured or underinsured motorist coverage a
24 judgment or other legal determination establishing the other

1 motorist's liability or the extent of the insured's damages before
2 benefits are paid under the policy.

3 (c) An insurer must attempt in good faith to effectuate a
4 prompt, fair, and equitable settlement of a claim once liability
5 and damages have become reasonably clear.

6 Sec. 1952.1063. PREJUDGMENT INTEREST; ATTORNEY'S FEES. (a)
7 Prejudgment interest accrues on an uninsured or underinsured
8 motorist claim on the earlier of:

9 (1) the 180th day after the date the claimant notifies
10 the insurer of the claim in accordance with Section 1952.1061; or

11 (2) the date on which suit is filed against the insurer
12 to recover under the uninsured or underinsured motorist coverage.

13 (b) For the purposes of recovery of attorney's fees under
14 Section 38.002, Civil Practice and Remedies Code, a claim for
15 uninsured or underinsured motorist coverage is presented when the
16 insurer receives notice of the claim in accordance with Section
17 1952.1061.

18 SECTION 2. (a) Except as provided by this section, the
19 change in law made by this Act applies only to a cause of action that
20 accrues on or after the effective date of this Act. A cause of
21 action that accrues before the effective date of this Act is
22 governed by the law in effect immediately before that date, and that
23 law is continued in effect for that purpose.

24 (b) The change in law made by this Act does not affect the
25 enforceability of any provision in an insurance policy delivered,
26 issued for delivery, or renewed before January 1, 2010, that
27 conflicts with the change in law made by this Act.

1 SECTION 3. This Act takes effect September 1, 2009.