

By: Eiland

H.B. No. 4095

A BILL TO BE ENTITLED

AN ACT

relating to subrogation rights of certain insurers.

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

SECTION 1. Title 7, Subtitle E, Insurance Code, is amended to add Chapter 1371 to read as follows:

Sec. 1371.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to any individual or group health or accident benefit plan or policy that is delivered or issued for delivery in this state or that insures any individual or group in this state.

(b) This chapter applies to any benefit plan exempted under 29 U.S.C. Sec. 1003(b), to the extent allowed by law.

Sec. 1371.002. SUBROGATION. (a) A policy or plan must provide that any right of recovery from third parties on the part of the insurer, whether by subrogation, assignment or reimbursement, is subordinate to the insured's right to be fully compensated for his damages.

(b) A policy or plan must provide that the insurer is obligated to share the legal expenses incurred in obtaining any recovery, to the extent the insurer shares in that recovery.

(c) No right of recovery may be pursued against the insured's first party recovery.

SECTION 2. This Act applies only to an action commenced on or after the effective date of this Act. An action that is commenced before the effective date of this Act is governed by the

1 law applicable to the action immediately before the effective date  
2 of this Act, and that law is continued in effect for that purpose.

3       SECTION 3. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2009.