

By: Shapleigh

S.B. No. 614

A BILL TO BE ENTITLED

AN ACT

relating to preexisting condition provisions in individual
accident and health insurance policies.

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

SECTION 1. Section 1201.152, Insurance Code, is amended to
read as follows:

Sec. 1201.152. PREEXISTING CONDITION PROVISION. (a) A
preexisting condition provision in an individual accident and
health insurance policy may apply only to coverage for a disease or
condition for which medical advice, diagnosis, care, or treatment
was recommended or received during the six months before the
earlier of:

(1) the effective date of coverage; or

(2) the first day of any waiting period applicable
under the policy.

(b) A preexisting condition provision in an individual
accident and health insurance policy may not apply to expenses
incurred on or after the first anniversary of the initial effective
date of coverage of the insured. [~~COVERAGE UNDER SIMPLIFIED~~

~~APPLICATION FORM. (a) Notwithstanding Clause (b) of the provision~~
~~required by Section 1201.208(a), an individual accident and health~~
~~insurance policy must cover any loss that occurs after 12 months~~
~~from a preexisting condition if the insurer uses a simplified~~
~~application form that does not include a question concerning the~~

1 ~~applicant's health history or medical treatment history.~~

2 ~~[(b) This section applies regardless of whether the~~
3 ~~simplified application form includes a question regarding the~~
4 ~~applicant's health at the time of application.]~~

5 (c) This section does not require an insurer to cover a loss
6 from a condition that the policy specifically excludes from
7 coverage.

8 SECTION 2. Section 1201.153(a), Insurance Code, is amended
9 to read as follows:

10 (a) Notwithstanding Section 1201.152 [~~or Clause (b) of the~~
11 ~~provision required by Section 1201.208(a)] , an individual accident
12 and health insurance policy delivered or issued for delivery to an
13 individual who is 65 years of age or older may not include a
14 provision that excludes from coverage a loss that occurs from a
15 preexisting condition more than six months after the effective date
16 of coverage under the policy.~~

17 SECTION 3. Sections 1201.154(b) and (c), Insurance Code,
18 are amended to read as follows:

19 (b) A preexisting condition provision in an individual
20 accident and health insurance policy may not apply to an
21 individual who was continuously covered for an aggregate period of
22 12 [~~18~~] months by creditable coverage that was in effect up to a
23 date not more than 63 days before the effective date of the
24 individual coverage, excluding any waiting period.

25 (c) In determining whether a preexisting condition
26 provision of an individual accident and health insurance policy
27 applies to an individual, an insurer shall credit the time the

1 individual previously was covered under creditable coverage if the
2 previous coverage was in effect at any time during the 12 [~~18~~]
3 months preceding the effective date of the individual coverage.

4 SECTION 4. The heading to Section 1201.208, Insurance Code,
5 is amended to read as follows:

6 Sec. 1201.208. POLICY PROVISION: INCONTESTABILITY;
7 PREEXISTING CONDITION.

8 SECTION 5. Section 1201.208, Insurance Code, is amended by
9 amending Subsections (a), (b), and (c) and adding Subsection (e) to
10 read as follows:

11 (a) Except as provided by Subsection (c), an individual
12 accident and health insurance policy must contain the following
13 provision:

14 "Time Limit on Certain Defenses: [~~(a)~~] After the second
15 anniversary of the date this policy is issued, a misstatement,
16 other than a fraudulent misstatement, made by the applicant in the
17 application for the policy may not be used to void the policy or to
18 deny a claim for loss incurred or disability (as defined in the
19 policy) beginning after that anniversary."

20 [~~"(b) A claim for loss incurred or disability (as defined in
21 the policy) beginning after the second anniversary of the date this
22 policy is issued may not be reduced or denied on the ground that a
23 disease or physical condition not excluded from coverage by name or
24 specific description effective on the date of loss existed before
25 the effective date of coverage of this policy."~~]

26 (b) The [~~Clause (a) of the~~] provision required by
27 Subsection (a) does not:

1 (1) affect any legal requirement for avoidance of a
2 policy or denial of a claim during the initial two-year period; or

3 (2) limit the application of Section 1201.219,
4 1201.220, or 1201.221 in a case of a misstatement regarding age,
5 occupation, or other insurance.

6 (c) For a policy that provides that the insured is entitled
7 to continue the policy in force by the timely payment of premiums
8 until the insured reaches at least 50 years of age or, if the policy
9 was issued after the insured reached 44 years of age, until at least
10 the fifth anniversary of the policy's date of issuance, an insurer
11 may use the following clause instead of [~~Clause (a) of~~] the
12 provision required by Subsection (a):

13 "After this policy has been in force for a period of two years
14 during the lifetime of the insured (excluding any period during
15 which the insured is disabled), it shall become incontestible as to
16 the statements contained in the application."

17 (e) The commissioner by rule shall adopt a policy provision
18 governing coverage for preexisting conditions under an individual
19 accident and health insurance policy. The provision must comply
20 with Subchapter D. An individual accident and health insurance
21 policy must contain the provision in the words provided by the rules
22 adopted under this subsection, subject to Sections 1201.201(b) and
23 (c).

24 SECTION 6. The commissioner of insurance shall adopt rules
25 as required by Section 1201.208, Insurance Code, as amended by this
26 Act, not later than December 1, 2009.

27 SECTION 7. This Act applies only to an individual accident

1 and health insurance policy delivered, issued for delivery, or
2 renewed on or after January 1, 2010. A policy delivered, issued for
3 delivery, or renewed before January 1, 2010, is governed by the law
4 as it existed immediately before the effective date of this Act, and
5 that law is continued in effect for that purpose.

6 SECTION 8. This Act takes effect September 1, 2009.