

By: Smithee

H.B. No. 3062

A BILL TO BE ENTITLED

AN ACT

relating to the payment of third-party claims under commercial and personal automobile insurance policies in this state.

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

SECTION 1. Chapter 542, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PROMPT PAYMENT OF THIRD-PARTY LIABILITY CLAIMS

Sec. 542.401. DEFINITIONS. In this subchapter:

(1) "Third-party claim" means a claim for bodily injury or property damage that is incurred by a person other than the insured and is payable under the liability portion of a commercial or personal automobile insurance policy or contract.

(2) "Third-party claimant" means a person who files a third-party claim.

Sec. 542.402. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any insurer authorized to write commercial or personal automobile liability insurance, or to otherwise provide automobile liability insurance in this state, including:

(1) a stock fire or casualty insurance company;

(2) a mutual fire or casualty insurance company;

(3) a Mexican casualty insurance company;

(4) a Lloyd's plan;

(5) a reciprocal or interinsurance exchange;

(6) a county mutual insurance company;

- 1 (7) an eligible surplus lines insurer; and
- 2 (8) a guaranty association operating under Chapter
- 3 462.

4 Sec. 542.403. EVALUATION OF THIRD-PARTY CLAIM. In
5 evaluating a third-party claim, an insurer shall:

6 (1) obtain and review reasonably available relevant
7 information, including reports, statements, visual and audio
8 recordings, and other data or analysis prepared or recorded by the
9 insured or another person at the time of or after the accident that
10 gave rise to the claim; and

11 (2) make and document reasonable, diligent efforts to
12 communicate with the person insured under the policy under which
13 the third-party claim is filed.

14 Sec. 542.404. PAYMENT OF CLAIM. (a) Except as provided by
15 Subsection (b) or (c), an insurer shall pay a third-party claim not
16 later than the fifth business day after the date the insurer
17 notifies a third-party claimant that the insurer will pay all or
18 part of the claimant's third-party claim.

19 (b) Except as provided by Subsection (c), if payment of all
20 or part of a third-party claim is conditioned on the performance of
21 an act by the third-party claimant, the insurer shall pay the
22 third-party claim not later than the fifth business day after the
23 date the third-party claimant performs the required act.

24 (c) An eligible surplus lines insurer shall pay a
25 third-party claim not later than the 20th business day after, as
26 applicable, the date:

- 27 (1) the insurer notifies the third-party claimant that

1 the insurer will pay all or part of the claimant's third-party
2 claim; or

3 (2) the third-party claimant performs a required act,
4 if payment of all or part of the third-party claim is conditioned on
5 the performance of an act by the third-party claimant.

6 Sec. 542.405. NO CAUSE OF ACTION CREATED. (a) This
7 subchapter does not create a private cause of action.

8 (b) This subchapter does not establish or create:

9 (1) rights of the third-party claimant as a
10 beneficiary under a commercial or personal automobile insurance
11 policy or contract; or

12 (2) obligations or duties on behalf of an insured or
13 insurer as a result of the third-party claim or to the third-party
14 claimant, other than those duties described by Sections 542.403 and
15 542.404.

16 Sec. 542.406. RULES. The commissioner may adopt rules
17 necessary to implement this subchapter.

18 SECTION 2. Subchapter H, Chapter 542, Insurance Code, as
19 added by this Act, applies only to a claim filed under a commercial
20 or personal automobile insurance policy on or after the effective
21 date of this Act. A claim filed under a commercial or personal
22 automobile insurance policy before the effective date of this Act
23 is governed by the law in effect on the date the claim was filed, and
24 the former law is continued in effect for that purpose.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.