

## **BILL ANALYSIS**

C.S.H.B. 658  
By: Sheets  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

For cases in which damages awarded to a plaintiff are subject to a Medicare subrogation lien, interested parties assert that defendants often have to wait for the issuance of a recovery demand letter from the Centers for Medicare and Medicaid Services or a designated contractor before making payment on the judgment. There is concern that postjudgment interest may accrue on the unpaid damages while a defendant is waiting for this letter, increasing the total amount that must be paid by the defendant. Given that the issuance and delivery of the recovery demand letter are not under the defendant's control, interested parties contend that such defendants should not be forced to pay additional costs due to delay caused by a third party. C.S.H.B. 658 seeks to create a fairer subrogation payment process by tolling postjudgment interest on the portion of an award subject to Medicare subrogation during certain periods.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 658 amends the Civil Practice and Remedies Code to establish that postjudgment interest does not accrue on the unpaid balance of an award of damages to a plaintiff attributable to any portion of the award to which the United States has a subrogation right under federal Medicare law before the defendant receives a recovery demand letter issued by the Centers for Medicare and Medicaid Services or a designated contractor. The bill establishes that such postjudgment interest does not accrue if the defendant pays the unpaid balance before the 31st day after the date the defendant receives the recovery demand letter. The bill's provisions do not apply if the defendant appeals the award of damages and do not prevent the accrual of postjudgment interest on any portion of an award to which the United States does not have a subrogation right.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 658 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Chapter 41, Civil Practice and

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Chapter 41, Civil Practice and

83R 19956

13.92.784

Substitute Document Number: 83R 12081

Remedies Code, is amended by adding Section 41.014 to read as follows:

Sec. 41.014. INTEREST ON DAMAGES SUBJECT TO MEDICARE SUBROGATION. (a) Subject to this section, interest does not accrue on the unpaid balance of an award of damages to a plaintiff if the United States has a subrogation right to the award under 42 U.S.C. Section 1395y(b)(2)(B) before the defendant receives a recovery demand letter issued by Centers for Medicare and Medicaid Services or a designated contractor under 42 C.F.R. Section 411.22.

(b) Interest under this section does not accrue if the defendant pays the unpaid balance before the 31st day after the date the defendant receives the recovery demand letter.

(c) If the defendant appeals the award of damages, interest on the award does not accrue before the appeal is final.

SECTION 2. The change in law made by this Act applies only to an award of damages made on or after the effective date of this Act. An award of damages made before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

Remedies Code, is amended by adding Section 41.014 to read as follows:

Sec. 41.014. INTEREST ON DAMAGES SUBJECT TO MEDICARE SUBROGATION. (a) Subject to this section, ~~postjudgment~~ interest does not accrue on the unpaid balance of an award of damages to a plaintiff attributable to any portion of the award to which the United States has a subrogation right under 42 U.S.C. Section 1395y(b)(2)(B) before the defendant receives a recovery demand letter issued by the Centers for Medicare and Medicaid Services or a designated contractor under 42 C.F.R. Section 411.22.

(b) ~~Postjudgment~~ interest under this section does not accrue if the defendant pays the unpaid balance before the 31st day after the date the defendant receives the recovery demand letter.

(c) If the defendant appeals the award of damages, this section does not apply.

(d) This section does not prevent the accrual of ~~postjudgment~~ interest on any portion of an award to which the United States does not have a subrogation right under 42 U.S.C. Section 1395y(b)(2)(B).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.