

SENATE AMENDMENTS

2nd Printing

By: Sheets, Krause

H.B. No. 658

A BILL TO BE ENTITLED

AN ACT

relating to postjudgment interest on damages subject to Medicare subrogation.

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

SECTION 1. Chapter 41, Civil Practice and 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. The change in law made by this Act applies only

1 to an award of damages made on or after the effective date of this
2 Act. An award of damages made before the effective date of this Act
3 is governed by the law in effect immediately before that date, and
4 that law is continued in effect for that purpose.

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

ADOPTED

MAY 22 2013

Henry Lopez
Secretary

By: Sheets / Watson

H.B. No. 658

Substitute the following for H.B. No. 658 :

By: Joan Huffman

C.S. H.B. No. 658

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain lawsuits seeking damages.

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

4 SECTION 1. Chapter 41, Civil Practice and Remedies Code, is
5 amended by adding Section 41.014 to read as follows:

6 Sec. 41.014. INTEREST ON DAMAGES SUBJECT TO MEDICARE
7 SUBROGATION. (a) Subject to this section, postjudgment interest
8 does not accrue on the unpaid balance of an award of damages to a
9 plaintiff attributable to any portion of the award to which the
10 United States has a subrogation right under 42 U.S.C. Section
11 1395y(b)(2)(B) before the defendant receives a recovery demand
12 letter issued by the Centers for Medicare and Medicaid Services or a
13 designated contractor under 42 C.F.R. Section 411.22.

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

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

19 (d) This section does not prevent the accrual of
20 postjudgment interest on any portion of an award to which the United
21 States does not have a subrogation right under 42 U.S.C. Section
22 1395y(b)(2)(B).

23 SECTION 2. Section 74.351(a), Civil Practice and Remedies
24 Code, is amended to read as follows:

1 (a) In a health care liability claim, a claimant shall, not
2 later than the 120th day after the date each defendant's [the]
3 original answer is [petition was] filed, serve on that [each] party
4 or the party's attorney one or more expert reports, with a
5 curriculum vitae of each expert listed in the report for each
6 physician or health care provider against whom a liability claim is
7 asserted. The date for serving the report may be extended by
8 written agreement of the affected parties. Each defendant
9 physician or health care provider whose conduct is implicated in a
10 report must file and serve any objection to the sufficiency of the
11 report not later than the later of the 21st day after the date the
12 report is [it was] served or the 21st day after the date the
13 defendant's answer is filed, failing which all objections are
14 waived.

15 SECTION 3. (a) Section 41.014, Civil Practice and Remedies
16 Code, as added by this Act, applies only to an award of damages made
17 on or after the effective date of this Act. An award of damages made
18 before the effective date of this Act is governed by the law in
19 effect immediately before that date, and that law is continued in
20 effect for that purpose.

21 (b) Section 74.351(a), Civil Practice and Remedies Code, as
22 amended by this Act, applies only to an action commenced on or after
23 the effective date of this Act. An action commenced before the
24 effective date of this Act is governed by the law in effect
25 immediately before that date, and that law is continued in effect
26 for that purpose.

27 SECTION 4. This Act takes effect September 1, 2013.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB658 by Sheets (Relating to certain lawsuits seeking damages.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to specify that postjudgment interest does not accrue on unpaid balances of certain damages awards. The bill also amends the Civil Practice and Remedies Code as it relates to requirements for service of expert reports in certain health care liability claims. The change in law would apply only to an award of damages made after the bill's effective date. The bill would take effect September 1, 2013.

It is not anticipated that the bill would result in a significant fiscal impact to the court system or to the the Health and Human Services Commission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, SD, AM, AG, CL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 17, 2013

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB658 by Sheets (Relating to certain lawsuits seeking damages.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to specify that postjudgment interest does not accrue on unpaid balances of certain damages awards. The bill also amends the Civil Practice and Remedies Code as it relates to requirements for service of expert reports in certain health care liability claims. The change in law would apply only to an award of damages made after the bill's effective date. The bill would take effect September 1, 2013.

It is not anticipated that the bill would result in a significant fiscal impact to the court system or to the the Health and Human Services Commission.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, AM, AG, CL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB658 by Sheets (Relating to postjudgment interest on damages subject to Medicare subrogation.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to specify that postjudgment interest does not accrue on unpaid balances of certain damages awards. It is not anticipated that the bill would result in a fiscal impact to the court system or to the the Health and Human Services Commission. The change in law would apply only to an award of damages made after the bill's effective date. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, AG, AM, CL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 3, 2013

TO: Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB658 by Sheets (Relating to postjudgment interest on damages subject to Medicare subrogation.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to specify that postjudgment interest does not accrue on unpaid balances of certain damages awards. It is not anticipated that the bill would result in a fiscal impact to the court system or to the the Health and Human Services Commission. The change in law would apply only to an award of damages made after the bill's effective date. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, AM, CL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 22, 2013

TO: Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB658 by Sheets (Relating to interest on damages subject to Medicare subrogation.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to specify that interest does not accrue on unpaid balances of certain damages awards. The Office of Court Administration reports that the bill would not have a fiscal impact to the court system. The Health and Human Services Commission indicates the bill will not have a fiscal impact to the agency. The change in law would apply only to an award of damages made after the bill's effective date. The bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

LBB Staff: UP, CL, AM