

By: Taylor of Collin

S.B. No. 1166

A BILL TO BE ENTITLED

AN ACT

relating to recovery of damages for delay of payment of certain insurance claims.

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

SECTION 1. Section 542.058(b), Insurance Code, is amended to read as follows:

(b) Subsection (a) does not apply in a case in which:

(1) it is found as a result of arbitration or litigation that a claim received by an insurer is invalid and should not be paid by the insurer;

(2) the amount of damages awarded as a result of arbitration or litigation is less than 80 percent of a settlement offer, as defined by Section 42.001, Civil Practice and Remedies Code, made by an insurer and rejected by the claimant;

(3) the claimant fails to provide an affidavit of damages under Section 542.0595(a); or

(4) the insurer pays to the claimant the amount of damages awarded as a result of an appraisal not later than the 15th business day after the date the damages are awarded in the appraisal.

SECTION 2. Subchapter B, Chapter 542, Insurance Code, is amended by adding Sections 542.0595 and 542.0596 to read as follows:

Sec. 542.0595. AFFIDAVIT OF DAMAGES. (a) A claimant shall

1 provide to an insurer an affidavit with the dollar amount of all
2 damages the claimant will seek in a suit seeking damages under this
3 subchapter not later than the 30th day before the date the claimant
4 commences the suit against the insurer.

5 (b) If a claimant seeks an amount in excess of the amount in
6 the claimant's affidavit under Subsection (a), the claimant shall
7 provide the insurer written notice of the excess amount by
8 affidavit not later than the 15th day before the date the claimant
9 files a petition or motion seeking the excess amount with a court.

10 Sec. 542.0596. SMALL CLAIMS CASES. (a) Notwithstanding
11 any other law, a claimant may file an action seeking damages under
12 this subchapter as a small claims case as provided by Section
13 27.060, Government Code, if the disputed amount of the insurance
14 claim does not exceed the maximum amount allowed for a small claims
15 case as determined by rules of civil procedure promulgated by the
16 supreme court. The total amount awarded in an action filed as a
17 small claims case under this subsection may not exceed two times the
18 disputed amount of the insurance claim.

19 (b) If a suit seeking damages under this subchapter is filed
20 as a small claims case as provided by Subsection (a) and Section
21 27.060, Government Code, an insurer may make an election to waive
22 the insurer's right to appeal not later than the 15th day after the
23 date the suit is filed against the insurer.

24 SECTION 3. The heading to Section 542.060, Insurance Code,
25 is amended to read as follows:

26 Sec. 542.060. LIABILITY FOR VIOLATION OF SUBCHAPTER;
27 APPEAL.

1 SECTION 4. Section 542.060, Insurance Code, is amended by
2 amending Subsection (a) and adding Subsections (c), (d), and (e) to
3 read as follows:

4 (a) If an insurer that is liable for a claim under an
5 insurance policy is not in compliance with this subchapter, the
6 insurer is liable to pay the holder of the policy or the beneficiary
7 making the claim under the policy, in addition to the amount of the
8 claim:

9 (1) [~~r~~] interest on the disputed amount of the claim at
10 the rate of 18 percent a year as damages;

11 (2) [~~, together with~~] reasonable and necessary
12 attorney's fees; and

13 (3) if the suit is filed as a small claims case and the
14 insurer did not make an election under Section 542.0596, court
15 costs.

16 (c) A court shall determine the amount of attorney's fees
17 awarded under Subsection (a). The amount of attorney's fees must
18 bear a reasonable relationship to the damages awarded by the trier
19 of fact based on the disputed amount of the claim.

20 (d) Interest awarded under Subsection (a)(1) begins to
21 accrue on the date the claimant provided the affidavit of damages
22 under Section 542.0595(a) or (b), as applicable.

23 (e) An attorney may not share attorney's fees awarded under
24 Subsection (a) with the claimant.

25 SECTION 5. The changes in law made by this Act apply only to
26 an insurance policy that is delivered, issued for delivery, or
27 renewed on or after January 1, 2016. A policy delivered, issued for

1 delivery, or renewed before January 1, 2016, is governed by the law
2 as it existed immediately before the effective date of this Act, and
3 that law is continued in effect for that purpose.

4 SECTION 6. This Act takes effect September 1, 2015.