

SUBJECT: Preventing the accrual of postjudgment interest on certain damages

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Lewis, Farrar, Farney, Hernandez Luna, Hunter, K. King, Raymond, S. Thompson

0 nays

1 absent — Gooden

WITNESSES: For — George Christian, Texas Civil Justice League; (*Registered, but did not testify*: Dan Finch, Texas Medical Association; Mike Hull, Texans for Lawsuit Reform and Texas Alliance for Patient Access; Dan Worthington, Texas Association of Defense Counsel)

Against — None

On — Brad Parker; Texas Trial Lawyers Association

DIGEST: CSHB 658 would prevent the accrual of postjudgment interest on an unpaid balance of damages subject to Medicare subrogation until the defendant had received a recovery demand letter from the Center for Medicare and Medicaid Services (CMS) or a designated contractor.

Postjudgment interest would not begin to accrue until 31 days after the defendant received the recovery demand letter. Postjudgment interest could accrue if a defendant appealed the award and on any portion of the award not subject Medicare subrogation.

The bill would take effect September 1, 2013, and would apply only to an award of damages made on or after that date.

SUPPORTERS SAY: CSHB 658 would help ensure fairness for defendants in cases in which the federal government has certain subrogation rights. In such cases, defendants cannot pay their damages balance until they receive a recovery demand letter from the Center for Medicare and Medicaid Services (CMS). This can take a long time, resulting in a higher balance. It is unfair for postjudgment interest to accrue when the defendant has no control over

when the defendant can first submit a payment. By tolling the accrual of postjudgment interest until a recovery demand letter was received, the bill would prevent defendants from paying more because of third-party delays.

Although the Affordable Care Act (ACA) attempted to address this problem on a federal level, this bill would create state law to further guarantee that defendants were not unfairly burdened when the payment schedule was beyond their control.

**OPPONENTS
SAY:**

CSHB 658 would be unnecessary, as the ACA made changes to the CMS recovery demand letter process in order to avoid delays, so it is unlikely that this will continue to be a problem for defendants.