

BILL ANALYSIS

Senate Research Center

S.B. 1812
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain provisions in Chapter 542 (Processing and Settlement of Claims), Insurance Code, state that if a life insurance claim is not paid within 60 days, an insurer can be held liable for damages. However, if a life insurer has two or more legitimate claimants to the proceeds, the insurer must file an interpleader action within those 60 days to avoid possible penalties. These provisions conflict with Section 1103.102(b) (relating to a company that issues a life insurance policy not being required to pay the proceeds of the policy to a designated beneficiary under certain conditions), Insurance Code, which provides that a company is not required to pay policy proceeds if the company receives notice of a legitimate adverse claim.

Until 2007, the courts had recognized a common law exception for requirements in Chapter 542 related to life insurance claim payments. However, in *State Farm Life Ins. Co. v. Martinez*, 216 S.W. 3d 799 (Tex. 2007) the Texas Supreme Court held that the common law exception did not survive the last codification of the statute. Absent this exception, a life insurer will have to file an interpleader in every situation in which a legitimate adverse interest exists because such situations can rarely, if ever, be resolved within 60 days.

S.B. 1812 amends current law relating to notice to a life insurer of an adverse claim to policy proceeds by a person with a bona fide legal claim.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 542.058, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that Subsection (a), rather than this section, does not apply in a case in which 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.

(c) Requires a life insurer that receives notice of an adverse, bona fide claim to all or part of the proceeds of the policy before the applicable payment deadline under Subsection (a) to pay the claim or properly file an interpleader action and tender the benefits into the registry of the court not later than the 90th day after the date the insurer receives all items, statements, and forms reasonably requested and required under Section 542.055 (Receipt of Notice of Claim). Requires a life insurer that delays payment of the claim or the filing of an interpleader and tender of policy proceeds for more than 90 days to pay damages and other items as provided by Section 542.060 (Liability for Violation of Subchapter) until the claim is paid or an interpleader is properly filed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.