

BILL ANALYSIS

Senate Research Center
82R10240 KCR-F

S.B. 1227
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Business & Commerce
4/14/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1227 amends the law with regard to third-party claims under commercial and personal automobile insurance policies. The legislation codifies certain protections for insured persons, who are injured by another policyholder and must seek redress for damages through that policyholder's insurance company instead of their own. S.B. 1227 requires insurers to obtain and review information about the third-party claim, make and document efforts to communicate with the third-party insured, and creates a timeline for the payment of third-party claims.

As proposed, S.B. 1227 amends current law relating to the payment of third-party claims under commercial and personal automobile insurance policies in this state.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 542.406, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 542, Insurance Code, by adding Subchapter H, as follows:

SUBCHAPTER H. PROMPT PAYMENT OF THIRD-PARTY LIABILITY CLAIMS

Sec. 542.401. DEFINITIONS. Defines, in this subchapter, "third-party claim" and "third-party claimant."

Sec. 542.402. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to any insurer authorized to write commercial or personal automobile liability insurance, or to otherwise provide automobile liability insurance in this state, including a stock fire or casualty insurance company, a mutual fire or casualty insurance company, a Mexican casualty insurance company, a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, an eligible surplus lines insurer, and a guaranty association operating under Chapter 462 (Texas Property and Casualty Insurance Guaranty Association).

Sec. 542.403. EVALUATION OF THIRD-PARTY CLAIM. Requires an insurer, in evaluating a third-party claim, to obtain and review reasonably available relevant information, including reports, statements, visual and audio recordings, and other data or analysis prepared or recorded by the insured or another person at the time of or after the accident that gave rise to the claim, and make and document reasonable, diligent efforts to communicate with the person insured under the policy under which the third-party claim is filed.

Sec. 542.404. PAYMENT OF CLAIM. (a) Requires an insurer, except as provided by Subsection (b) or (c), to pay a third-party claim not later than the 10th business day after the date the insurer and the third-party claimant agree on the amount of the claimant's third-party claim that the insurer will pay.

(b) Requires the insurer, except as provided by Subsection (c), if payment of all or part of a third-party claim is conditioned on the performance of an act by the third-party claimant, to pay the third-party claim not later than the 10th business day after the date the third-party claimant performs the required act.

(c) Requires an eligible surplus lines insurer to pay a third-party claim not later than the 20th business day after, as applicable, the date the insurer and the third-party claimant agree on the amount of the claimant's third-party claim that the insurer will pay, or the third-party claimant performs a required act, if the payment of all or part of the third-party claim is conditioned on the performance of an act by the third-party claimant.

Sec. 542.405. NO CAUSE OF ACTION CREATED. (a) Provides that this subchapter does not create a private cause of action.

(b) Provides that this subchapter does not establish or create rights of the third-party claimant as a beneficiary under a commercial or personal automobile insurance policy or contract, or obligations or duties on behalf of an insured or insurer as a result of the third-party claim or to the third-party claimant, other than those duties described by Sections 542.403 and 542.404.

Sec. 542.406. RULES. Authorizes the commissioner of insurance to adopt rules necessary to implement this subchapter.

SECTION 2. Makes application of Subchapter H, Chapter 542, Insurance Code, as added by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2011.