

## **BILL ANALYSIS**

Senate Research Center  
83R12081 TJS-F

H.B. 658  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Medicare subrogation lien cases, defendants are currently forced to wait for the issuance of a recovery demand letter from the Center for Medicare and Medicaid before making payment on their judgment. While a defendant is waiting for this letter, post judgment interest accrues on the lien, increasing the total cost paid. Given that the issuance and delivery of the recovery demand letter is completely out of the hands of the defendant, they are often forced to pay additional costs due to delay caused by the federal government (third party).

H.B. 658 seeks to create a fairer subrogation payment process by providing that post judgment interest on the portion covered by Medicaid is tolled during the period that defendants are waiting for the issuance of the recovery demand letter. Once the letter is received post judgment interest will continue to accrue until payment is received.

H.B. 658 amends current law relating to postjudgment interest on damages subject to Medicare subrogation.

### **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 Chapter 41, Civil Practice and Remedies Code, by adding Section 41.014, as follows:

Sec. 41.014. INTEREST ON DAMAGES SUBJECT TO MEDICARE SUBROGATION.

(a) Provides that 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) Provides that 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) Provides that if the defendant appeals the award of damages, this section does not apply.

(d) Provides that 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. Provides that the change in law made by this Act applies only to an award of damages made on or after the effective date of this Act. Provides that an award of damages

made before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.