

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

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

Sec. 542.0596. SMALL CLAIMS CASES. (a) Notwithstanding any other law, a claimant may file an action seeking damages under this subchapter as a small claims case as provided by Section 27.060, Government Code, if the disputed amount of the

insurance claim does not exceed the maximum amount allowed for a small claims case as determined by rules of civil procedure promulgated by the supreme court. The total amount awarded in an action filed as a small claims case under this subsection may not exceed two times the disputed amount of the insurance claim.

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

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

Sec. 542.060. LIABILITY FOR VIOLATION OF SUBCHAPTER APPEAL.

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

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

(1) [7] interest on the disputed amount of the claim at the rate of 18 percent a year as damages;

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

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

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

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

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

SECTION 5. The changes in law made by this Act apply only to

an insurance policy that is delivered, issued for delivery,
or
renewed on or after January 1, 2016. A policy delivered,
issued for
delivery, or renewed before January 1, 2016, is governed by
the law
as it existed immediately before the effective date of this
Act, and
that law is continued in effect for that purpose.

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