

By: Smithee

H.B. No. 3646

A BILL TO BE ENTITLED

AN ACT

relating to insurance claims and certain prohibited acts and practices in or in relation to the business of insurance; amending provisions that are or may be subject to a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 541.002(2), Insurance Code, is amended to read as follows:

(2) "Person" means an individual, corporation, association, partnership, reciprocal or interinsurance exchange, Lloyd's plan, fraternal benefit society, or other legal entity engaged in the business of insurance, including an agent, broker, ~~adjuster,~~ or life and health insurance counselor. The term does not include an individual employed by an insurer as an adjuster or a third-party individual or entity engaged by an insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim.

SECTION 2. Section 541.060, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) It is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance for a person to engage in the following unfair settlement practices with respect to a claim by an insured or beneficiary:

(1) misrepresenting to a claimant a material fact or

1 policy provision relating to coverage at issue;

2 (2) failing to attempt in good faith to effectuate a  
3 prompt, fair, and equitable settlement of:

4 (A) a claim with respect to which the insurer's  
5 liability has become reasonably clear; or

6 (B) a claim under one portion of a policy with  
7 respect to which the insurer's liability has become reasonably  
8 clear to influence the claimant to settle another claim under  
9 another portion of the coverage unless payment under one portion of  
10 the coverage constitutes evidence of liability under another  
11 portion;

12 (3) failing to promptly provide to a policyholder a  
13 reasonable explanation of the basis in the policy, in relation to  
14 the facts or applicable law, for the insurer's denial of a claim or  
15 offer of a compromise settlement of a claim;

16 (4) failing within a reasonable time to:

17 (A) affirm or deny coverage of a claim to a  
18 policyholder; or

19 (B) submit a reservation of rights to a  
20 policyholder;

21 (5) refusing, failing, or unreasonably delaying a  
22 settlement offer under applicable first-party coverage on the basis  
23 that other coverage may be available or that third parties are  
24 responsible for the damages suffered, except as may be specifically  
25 provided in the policy;

26 (6) undertaking to enforce a full and final release of  
27 a claim from a policyholder when only a partial payment has been

made, unless the payment is a compromise settlement of a doubtful or disputed claim;

(7) refusing to pay a claim without conducting a reasonable investigation with respect to the claim;

(8) with respect to a Texas personal automobile insurance policy, delaying or refusing settlement of a claim solely because there is other insurance of a different kind available to satisfy all or part of the loss forming the basis of that claim; or

(9) requiring a claimant as a condition of settling a claim to produce the claimant's federal income tax returns for examination or investigation by the person unless:

(A) a court orders the claimant to produce those tax returns;

(B) the claim involves a fire loss; or

(C) the claim involves lost profits or income.

(c) An insurer is solely responsible for any violation of Subsection (a) by:

(1) an individual employed by the insurer as an adjuster; or

(2) a third-party individual or entity engaged by the insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim.

SECTION 3. Section 541.061, Insurance Code, is amended to read as follows:

Sec. 541.061. MISREPRESENTATION OF INSURANCE POLICY. (a) It is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance for a person to

1 misrepresent an insurance policy by:

2 (1) making an untrue statement of material fact;

3 (2) failing to state a material fact necessary to make  
4 other statements made not misleading, considering the  
5 circumstances under which the statements were made;

6 (3) making a statement in a manner that would mislead a  
7 reasonably prudent person to a false conclusion of a material fact;

8 (4) making a material misstatement of law; or

9 (5) failing to disclose a matter required by law to be  
10 disclosed, including failing to make a disclosure in accordance  
11 with another provision of this code.

12 (b) An insurer is solely responsible for any violation of  
13 Subsection (a) by:

14 (1) an individual employed by the insurer as an  
15 adjuster; or

16 (2) a third-party individual or entity engaged by the  
17 insurer to provide adjusting, estimating, consulting, engineering,  
18 or other services related to the insurer's adjustment of a claim.

19 SECTION 4. Section 541.151, Insurance Code, is amended to  
20 read as follows:

21 Sec. 541.151. PRIVATE ACTION FOR ACTUAL DAMAGES AUTHORIZED.

22 (a) A person who sustains actual damages may bring an action against  
23 another person for those damages caused by the other person  
24 engaging in an act or practice:

25 (1) defined by Subchapter B to be an unfair method of  
26 competition or an unfair or deceptive act or practice in the  
27 business of insurance; or

(2) specifically enumerated in Section 17.46(b), Business & Commerce Code, as an unlawful deceptive trade practice if the person bringing the action shows that the person relied on the act or practice to the person's detriment.

(b) For purposes of this subchapter, "actual damages" means an injury independent of the harm resulting from the insurer's denial of policy benefits. The policy benefits wrongfully withheld, as well as any attorney's fees or costs incurred to recover those policy benefits, do not constitute "actual damages" for purposes of this section.

(c) An insurer is solely responsible for any violation of Subsection (a) by:

(1) an individual employed by the insurer as an adjuster; or

(2) a third-party individual or entity engaged by the insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim.

SECTION 5. The heading to Section 541.152, Insurance Code, is amended to read as follows:

Sec. 541.152. ACTUAL DAMAGES, ATTORNEY'S FEES, AND OTHER RELIEF.

SECTION 6. Section 541.154, Insurance Code, is amended to read as follows:

Sec. 541.154. PRIOR NOTICE OF ACTION. (a) An insured [~~A person~~] seeking damages in an action against an insurer [~~another person under this subchapter~~] must provide written notice to the insurer [~~other person~~] not later than the 61st day before the date

1 the action is filed.

2 (b) If the amount sought by the insured in the action  
3 involves a claim for damage items previously submitted to the  
4 insurer, the ~~[The]~~ notice must contain ~~[advise the other person~~  
5 ~~of]~~:

6 (1) a sworn statement signed by the insured stating  
7 the specific damage items and the amount alleged to be owed by the  
8 insurer ~~[the specific complaint]; [and]~~

9 (2) the amount of the ~~[actual damages and expenses,~~  
10 ~~including]~~ attorney's fees the insured reasonably incurred in  
11 asserting the claim against the insurer; and

12 (3) a stated amount that includes the amounts  
13 described by Subdivisions (1) and (2) that the insured will accept  
14 in full and final satisfaction of the claim ~~[other person]~~.

15 (b-1) If the amount sought by the insured in the action  
16 involves a claim for damage items not previously submitted to the  
17 insurer, the notice must contain:

18 (1) a sworn statement signed by the insured stating  
19 the specific damage items, the amount alleged to be owed by the  
20 insured, and the reason the damage items were not previously  
21 submitted to the insurer;

22 (2) copies of reports, estimates, photographs, and  
23 other items reasonably supporting the insured's additional damage  
24 items;

25 (3) a statement that the insured will cooperate in  
26 allowing the insurer to inspect the insured property for purposes  
27 of investigating the additional damage items;

1           (4) the amount of the attorney's fees the insured  
2 reasonably incurred in asserting the claim against the insurer; and

3           (5) a stated amount that includes the amounts  
4 described by Subdivisions (1) and (4) that the insured will accept  
5 in full and final satisfaction of the claim.

6           (b-2) Notice required by this section must be sent to the  
7 insurer by certified mail, return receipt requested.

8           (c) Notice under this section [~~The notice~~] is not required  
9 if giving notice is impracticable because the action:

10           (1) must be filed to prevent the statute of  
11 limitations from expiring; or

12           (2) is asserted as a counterclaim.

13           SECTION 7. Section [541.155](#), Insurance Code, is amended to  
14 read as follows:

15           Sec. 541.155. ABATEMENT; DISMISSAL. (a) A person against  
16 whom an action under this subchapter is pending who does not receive  
17 [~~the~~] notice as required by Section [541.154\(b\)](#) [~~541.154~~] may file a  
18 plea in abatement not later than the 30th day after the date the  
19 person files an original answer in the court in which the action is  
20 pending.

21           (b) The court shall abate the action if, after a hearing,  
22 the court finds that the person is entitled to an abatement because  
23 the claimant did not provide [~~the~~] notice as required by Section  
24 [541.154\(b\)](#) [~~541.154~~].

25           (c) An action is automatically abated without a court order  
26 beginning on the 11th day after the date a plea in abatement is  
27 filed if the plea:

1           (1) is verified and alleges that the person against  
2 whom the action is pending did not receive ~~[the]~~ notice as required  
3 by Section 541.154(b) ~~[541.154]~~; and

4           (2) is not controverted by an affidavit filed by the  
5 claimant before the 11th day after the date the plea in abatement is  
6 filed.

7           (d) An abatement under this section continues until the 60th  
8 day after the date notice is provided in compliance with Section  
9 541.154(b) ~~[541.154]~~.

10          (d-1) A person against whom an action under this subchapter  
11 is pending who does not receive notice as required by Section  
12 541.154(b-1) may file a motion to dismiss not later than the 30th  
13 day after the date the person files an original answer in the court  
14 in which the action is pending.

15          (d-2) The court shall grant the motion under Subsection  
16 (d-1) if, after a hearing, the court finds that the person is  
17 entitled to dismissal because the claimant did not provide notice  
18 as required by Section 541.154(b-1).

19          (e) Subsections (d-1) and (d-2) do ~~[This section does]~~ not  
20 apply if Section 541.154(c) applies. If Section 541.154(c)  
21 applies, the action may not be dismissed but shall be abated in  
22 accordance with Subsections (b), (c), and (d).

23          SECTION 8. Section 542.053, Insurance Code, is amended by  
24 adding Subsection (e) to read as follows:

25          (e) This subchapter is not intended to create any right of  
26 action against an individual employed by an insurer as an adjuster  
27 or a third-party individual or entity engaged by an insurer to



1 provide adjusting, estimating, consulting, engineering, or other  
2 services related to the insurer's adjustment of a claim. An insurer  
3 listed in Section 542.052 is solely responsible under this  
4 subchapter for an action of an individual employed by the insurer as  
5 an adjuster or a third-party individual or entity engaged by the  
6 insurer to provide adjusting, estimating, consulting, engineering,  
7 or other services related to the insurer's adjustment of a claim.

8 SECTION 9. Subchapter B, Chapter 542, Insurance Code, is  
9 amended by adding Section 542.0595 to read as follows:

10 Sec. 542.0595. PRIOR NOTICE OF ACTION; ABATEMENT OR  
11 DISMISSAL. (a) An insured may not bring suit under Section 542.060  
12 in connection with a claim for property damage or loss unless the  
13 insured has provided written notice to the insurer with respect to  
14 the claim in accordance with Section 541.154.

15 (b) A suit under Section 542.060 is subject to abatement or  
16 dismissal to the same extent and in the same manner provided by  
17 Section 541.155 for an action under Subchapter D, Chapter 541.

18 SECTION 10. Section 542.060, Insurance Code, is amended to  
19 read as follows:

20 Sec. 542.060. LIABILITY FOR VIOLATION OF SUBCHAPTER. (a)  
21 If an insurer that is liable for a claim under an insurance policy  
22 knowingly fails to act [is not] in compliance with this subchapter,  
23 the insurer is liable to pay the holder of the policy or the  
24 beneficiary making the claim under the policy, in addition to the  
25 amount of the claim, interest on the unpaid amount of the claim at  
26 the rate of 18 percent a year as damages, together with reasonable  
27 attorney's fees.

1        (a-1) For purposes of Subsection (a), an insurer knowingly  
2 fails to act in compliance with this subchapter only if the insurer  
3 is actually aware of the insurer's failure to pay a claim for which  
4 the insurer is liable. There is no liability under this section for  
5 a claim with respect to which there is a bona fide dispute as to  
6 whether the insurer is liable.

7        (b) If a suit is filed, interest and ~~[the]~~ attorney's fees  
8 payable under this section shall be taxed as part of the costs in  
9 the case.

10        (c) The liability for interest and attorney's fees provided  
11 by this section are the exclusive remedy for a violation of this  
12 subchapter. This section is not intended to affect a right or  
13 remedy provided by Chapter 541 or any other law outside this  
14 subchapter.

15        SECTION 11. Subchapter B, Chapter 542, Insurance Code, is  
16 amended by adding Section 542.0601 to read as follows:

17        Sec. 542.0601. LIABILITY WITH RESPECT TO CERTAIN CLAIMS.  
18 An insurer is not liable under Section 542.060 with respect to:

19                (1) a claim received by the insurer if it is determined  
20 through arbitration, litigation, or another dispute resolution  
21 process that the claim:

22                        (A) is not covered under the insurance policy;

23                        (B) was properly rejected;

24                        (C) is invalid; or

25                        (D) otherwise should not be paid by the insurer;

26 or

27                (2) a claim with respect to which an appraisal

1 process:

2 (A) is invoked under the terms of the policy:

3 (i) by the insurer or insured before the  
4 commencement of litigation;

5 (ii) by the defendant within 60 days after  
6 receiving notice of the commencement of litigation; or

7 (iii) by the plaintiff after the  
8 commencement of litigation; and

9 (B) results in a valid, signed award the amount  
10 of which is paid by the insurer not later than the 15th day after the  
11 date the insurer receives the award, consistent with the coverage,  
12 conditions, and limits provided by the policy, minus any prior  
13 payments and any applicable deductible amount.

14 SECTION 12. Subtitle A, Title 10, Insurance Code, is  
15 amended by adding Chapter 1808 to read as follows:

16 CHAPTER 1808. CLAIMS FOR PROPERTY DAMAGE

17 Sec. 1808.001. DEFINITION. In this chapter, "claim for  
18 property damage" means a request for payment under an insurance  
19 policy for damage to or loss of real property or tangible personal  
20 property alleged to be covered by the policy.

21 Sec. 1808.002. APPLICABILITY OF CHAPTER. This chapter  
22 applies to any claim under or related to an insurance policy that  
23 provides insurance coverage against damage to or loss of real  
24 property or tangible personal property, including a policy issued  
25 by an insurance company, reciprocal or interinsurance exchange,  
26 mutual insurance company, capital stock insurance company, county  
27 mutual insurance company, Lloyd's plan, or other legal entity

1 authorized to write property insurance in this state.

2 Sec. 1808.003. CLAIM FILING PERIOD. (a) A claimant must  
3 give an insurer prompt written notice of a claim for property damage  
4 after property covered under the policy is damaged or lost, but in  
5 no event later than the second anniversary of the date on which the  
6 damage to or loss of property that is the basis of the claim occurs.

7 (b) Failure to provide notice of a claim for property damage  
8 by the second anniversary of the date on which the damage to or loss  
9 of property that is the basis of the claim occurs is an absolute bar  
10 to recovery on the claim.

11 (c) Nothing in this section precludes an insurer from  
12 raising any defense available under the terms of its policy  
13 relating to prompt notice or that is otherwise available under the  
14 law.

15 SECTION 13. Section 4102.051(a), Insurance Code, is amended  
16 to read as follows:

17 (a) A person may not act as a public insurance adjuster in  
18 this state or hold himself or herself out to be a public insurance  
19 adjuster in this state unless the person holds a license or  
20 certificate issued by the commissioner under Section 4102.053 or  
21 [7] 4102.054~~[7 or 4102.069]~~.

22 SECTION 14. Section 4102.066(a), Insurance Code, is amended  
23 to read as follows:

24 (a) The commissioner shall collect in advance the following  
25 nonrefundable fees:

26 (1) for a public insurance adjuster license, an  
27 application fee in an amount to be determined by rule by the

1 commissioner;

2 (2) for a nonresident public insurance adjuster  
3 license, an application fee in an amount to be determined by rule by  
4 the commissioner; and

5 (3) for each public insurance adjuster examination, a  
6 fee in an amount to be determined by rule by the commissioner [~~and~~

7 [~~(4) for a public insurance adjuster trainee  
8 certificate under Section 4102.069, a registration fee in an amount  
9 to be determined by rule by the commissioner~~].

10 SECTION 15. Section 4102.103, Insurance Code, is amended by  
11 adding Subsection (d) to read as follows:

12 (d) A license holder may not enter into a contract with an  
13 insured and collect a commission as provided by Section 4102.104  
14 without the intent to actually perform the services of a licensed  
15 public insurance adjuster for the insured.

16 SECTION 16. Section 4102.104(d), Insurance Code, is amended  
17 to read as follows:

18 (d) A public insurance adjuster may not accept any payment  
19 that violates the provisions of this section [~~Subsection (c)~~].

20 SECTION 17. Section 4102.158, Insurance Code, is amended by  
21 amending Subsection (a) and adding Subsections (d), (e), and (f) to  
22 read as follows:

23 (a) A license holder may not:

24 (1) participate directly or indirectly in the  
25 reconstruction, repair, or restoration of damaged property that is  
26 the subject of a claim adjusted by the license holder; or

27 (2) engage in any other activities that may reasonably

1 be construed as presenting a conflict of interest, including  
2 soliciting or accepting any remuneration from, ~~[or]~~ having a  
3 financial interest in, or having any immediate family member own or  
4 operate, any salvage firm, repair firm, construction firm, or other  
5 firm that obtains business in connection with any claim the license  
6 holder has a contract or agreement to adjust.

7 (d) A license holder may not enter into a contract with an  
8 insured for the primary purpose of referring the insured to an  
9 attorney and without the intent to actually perform for the insured  
10 the services of a licensed public insurance adjuster.

11 (e) A license holder may not act on behalf of an attorney in  
12 having an insured sign an attorney representation agreement.

13 (f) A license holder must become familiar with and at all  
14 times act in conformance with the criminal barratry statute set  
15 forth in Section 38.12, Penal Code.

16 SECTION 18. Section 4102.160, Insurance Code, is amended to  
17 read as follows:

18 Sec. 4102.160. CERTAIN PAYMENTS PROHIBITED. A license  
19 holder may not:

20 (1) advance money to any potential client or insured;  
21 or

22 (2) pay, allow, or give, or offer to pay, allow, or  
23 give, directly or indirectly, to a contractor, attorney, or any  
24 other person who is not a licensed public insurance adjuster a fee,  
25 commission, or other valuable consideration for the referral of an  
26 insured to the public insurance adjuster for purposes of ~~[based on]~~  
27 the insured entering into a contract with that public insurance

1 adjuster or for any other purpose [~~or~~

2 [~~(3) otherwise offer to pay a fee, commission, or~~  
3 ~~other valuable consideration exceeding \$100 to a person not~~  
4 ~~licensed as a public insurance adjuster for referring an insured to~~  
5 ~~the license holder]~~.

6 SECTION 19. Subchapter D, Chapter 4102, Insurance Code, is  
7 amended by adding Section 4102.164 to read as follows:

8 Sec. 4102.164. ACCEPTANCE OF REFERRAL PAYMENTS PROHIBITED.

9 (a) A licensed public insurance adjuster may not accept a fee,  
10 commission, or other valuable consideration of any nature,  
11 regardless of form or amount, in exchange for the referral by a  
12 licensed public insurance adjuster of an insured to any third-party  
13 individual or firm, including but not limited to an attorney,  
14 appraiser, umpire, construction company, contractor, or salvage  
15 company.

16 (b) The commissioner shall adopt rules necessary to  
17 implement and enforce this section.

18 SECTION 20. The heading to Section 27.02, Business &  
19 Commerce Code, is amended to read as follows:

20 Sec. 27.02. CERTAIN OFFERS MADE AND INFORMATION PROVIDED IN  
21 CONNECTION WITH INSURANCE CLAIMS [~~FOR EXCESSIVE CHARGES~~].

22 SECTION 21. Sections 27.02(a) and (b), Business & Commerce  
23 Code, are amended to read as follows:

24 (a) A person who sells goods or services, including a  
25 contractor, appraiser, estimator, or insurance restoration  
26 contractor, commits an offense if, in connection with a claim for  
27 property loss or damage under a property or casualty insurance

1 policy:

2 (1) the person advertises or promises to ~~[provide the~~  
3 ~~good or service and to]~~ pay, waive, absorb, rebate, subsidize,  
4 credit, or otherwise cover for any reason [~~÷~~

5 [~~(A)~~] all or part of any applicable insurance  
6 deductible or other uninsured amount owed by an insured under the  
7 terms of the policy; [~~or~~

8 [~~(B)~~ ~~a rebate in an amount equal to all or part of~~  
9 ~~any applicable insurance deductible;~~]

10 (2) ~~[the good or service is paid for by the consumer~~  
11 ~~from proceeds of a property or casualty insurance policy; and~~

12 [~~(3)~~] the person knowingly provides or causes to be  
13 provided to an insurer any estimate or other statement as to the  
14 cost of repair for the good or service to be provided that has been  
15 increased, inflated, or otherwise manipulated [~~charges an amount~~  
16 ~~for the good or service that exceeds the usual and customary charge~~  
17 ~~by the person for the good or service]~~ by an amount equal to or  
18 greater than all or part of the applicable insurance deductible or  
19 other uninsured amount owed by an insured under the policy; or

20 (3) the person knowingly provides or causes to be  
21 provided to an insurer any false or misleading material information  
22 within any estimate, bid, proposal, or other statement as to the  
23 scope of damage or cost of repair for the good or service to be  
24 provided [~~paid by the person to an insurer on behalf of an insured~~  
25 ~~or remitted to an insured by the person as a rebate)].~~

26 (b) A person who is insured under a property or casualty  
27 insurance policy commits an offense if the person:



1           (1) knowingly submits a claim under the policy based  
2 on conduct [~~charges that are~~] in violation of Subsection (a) [~~of~~  
3 ~~this section~~]; or

4           (2) knowingly allows a claim in violation of  
5 Subsection (a) [~~of this section~~] to be submitted, unless the person  
6 promptly notifies the insurer of the conduct in violation of  
7 Subsection (a) [~~excessive charges~~].

8           SECTION 22. Section 38.12(d), Penal Code, is amended to  
9 read as follows:

10          (d) A person commits an offense if the person:

11           (1) is an attorney, chiropractor, physician, surgeon,  
12 public insurance adjuster, as defined by Section 4102.001,  
13 Insurance Code, or private investigator licensed to practice in  
14 this state or any person licensed, certified, or registered by a  
15 health care regulatory agency of this state; and

16           (2) with the intent to obtain professional employment  
17 for the person or for another, provides or knowingly permits to be  
18 provided to an individual who has not sought the person's  
19 employment, legal representation, advice, or care a written  
20 communication or a solicitation, including a solicitation in person  
21 or by telephone, that:

22           (A) concerns an action for personal injury or  
23 wrongful death or otherwise relates to an accident or disaster  
24 involving the person to whom the communication or solicitation is  
25 provided or a relative of that person and that was provided before  
26 the 31st day after the date on which the accident or disaster  
27 occurred;

1 (B) concerns a specific matter and relates to  
2 legal representation and the person knows or reasonably should know  
3 that the person to whom the communication or solicitation is  
4 directed is represented by a lawyer in the matter;

5 (C) concerns a lawsuit of any kind, including an  
6 action for divorce, in which the person to whom the communication or  
7 solicitation is provided is a defendant or a relative of that  
8 person, unless the lawsuit in which the person is named as a  
9 defendant has been on file for more than 31 days before the date on  
10 which the communication or solicitation was provided;

11 (D) is provided or permitted to be provided by a  
12 person who knows or reasonably should know that the injured person  
13 or relative of the injured person has indicated a desire not to be  
14 contacted by or receive communications or solicitations concerning  
15 employment;

16 (E) involves coercion, duress, fraud,  
17 overreaching, harassment, intimidation, or undue influence; ~~or~~

18 (F) contains a false, fraudulent, misleading,  
19 deceptive, or unfair statement or claim; or

20 (G) concerns the proposed adjustment of a  
21 property damage insurance claim and is made by a person other than  
22 the licensed public insurance adjuster who would be directly  
23 providing the proposed public insurance adjusting services to the  
24 recipient of the communication.

25 SECTION 23. Section 4102.069, Insurance Code, is repealed.

26 SECTION 24. Chapter 541, Insurance Code, as amended by this  
27 Act, applies only to conduct that occurs on or after the effective

1 date of this Act. Conduct that occurs before the effective date of  
2 this Act is governed by the law as it existed immediately before the  
3 effective date of this Act, and that law is continued in effect for  
4 that purpose.

5 SECTION 25. Subchapter B, Chapter 542, Insurance Code, as  
6 amended by this Act, applies only to a claim for which notice of  
7 claim is provided to an insurer on or after the effective date of  
8 this Act. A claim for which notice of claim is provided to an  
9 insurer before the effective date of this Act is governed by the law  
10 as it existed immediately before the effective date of this Act, and  
11 that law is continued in effect for that purpose.

12 SECTION 26. Chapter 1808, Insurance Code, as added by this  
13 Act, applies only to a claim under an insurance policy delivered,  
14 issued for delivery, or renewed on or after January 1, 2016. A  
15 claim under a policy delivered, issued for delivery, or renewed  
16 before January 1, 2016, is governed by the law as it existed  
17 immediately before the effective date of this Act, and that law is  
18 continued in effect for that purpose.

19 SECTION 27. The repeal by this Act of Section [4102.069](#),  
20 Insurance Code, does not affect the authority of a person to act  
21 under a temporary certificate issued by the Texas Department of  
22 Insurance under that section before the effective date of this Act.

23 SECTION 28. Sections [4102.103\(d\)](#) and [4102.158\(d\)](#),  
24 Insurance Code, as added by this Act, apply only to a contract  
25 entered into on or after the effective date of this Act.

26 SECTION 29. (a) Except as provided by this section, Section  
27 [4102.104](#), Insurance Code, as amended by this Act, applies only to

1 payment for a service performed on or after the effective date of  
2 this Act.

3 (b) Payment for a service performed before the effective  
4 date of this Act or performed after the effective date of this Act  
5 under a contract entered into before the effective date of this Act  
6 is governed by the law as it existed immediately before the  
7 effective date of this Act, and that law is continued in effect for  
8 that purpose.

9 SECTION 30. Section [4102.160](#), Insurance Code, as amended by  
10 this Act, and Section 4102.164, Insurance Code, as added by this  
11 Act, apply only to a referral made on or after the effective date of  
12 this Act. A referral made before the effective date of this Act is  
13 governed by the law as it existed immediately before the effective  
14 date of this Act, and that law is continued in effect for that  
15 purpose.

16 SECTION 31. The changes in law made by this Act apply only  
17 to an offense committed on or after the effective date of this Act.  
18 An offense committed before the effective date of this Act is  
19 governed by the law in effect when the offense was committed, and  
20 the former law is continued in effect for that purpose. For  
21 purposes of this section, an offense was committed before the  
22 effective date of this Act if any element of the offense occurred  
23 before that date.

24 SECTION 32. This Act takes effect September 1, 2015.