

BILL ANALYSIS

Senate Research Center

S.B. 1106
By: Duncan
Economic Development
4-2-97
Committee Report (Amended)

DIGEST

Currently, insurers are required to bring an action against a potentially liable third party to recover the deductible on a motor vehicle policy for a claim made by an insured. The phrase "bring an action" has been interpreted by the courts to mean filing a lawsuit. This bill would clarify the phrase "bring an action" to include collection efforts, mediation, arbitration or litigation; and would require insurers to bring an action within 12 months from the date a claim is made.

PURPOSE

As proposed, S.B. 1106 clarifies the phrase "bring an action" and requires insurers to bring an action within 12, rather than six, months from the date a claim is made under Article 21.79E, Insurance Code, relating to an action for amount of deductible by an insurer.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of insurance in SECTION 1 (Subsection (f), Article 21.79E, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 21.79E, Insurance Code, to provide that this article applies to any insurer who delivers, issues for delivery, or renews a private passenger automobile policy of insurance in this state, rather than a policy of motor vehicle insurance in this state. Requires an insurer to bring an action to recover a deductible against a third party no later than 12, rather than six, months after payment of its insured's claim or pay the amount of the deductible to the insured if an insurer is liable to an insured for a claim, and such claim is subject to a deductible payable by the insured, and a third party may be liable to the insurer or the insured for the amount of the deductible. Provides that Subsection (b) of this article does not apply if, no later than the earlier of 12, rather than six, months after the date the insured's claim is paid, rather than made, or 90 days prior to the expiration of the statute of limitations for negligence actions, the insurer notifies the insured in writing that the insurer does, rather than will, not intend to pursue further collection actions, rather than bring an action, against the third party to pursue further collection actions. Provides that this article is intended to encourage insurers to take appropriate and necessary steps to collect from third parties or their insurers. Defines "bring an action." Authorizes the commissioner of insurance to have authority to enforce this article and is to promulgate and enforce reasonable rules and regulations as is necessary for the accomplishment of the purposes of this article. Makes conforming and nonsubstantive changes.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 1, lines 21-24, and page 2, lines 1-2, deletes proposed changes to Article 21.79E(c),

Insurance Code, and substitutes the following: "(c) Subsection (b) of this article does not apply if, not later than the earlier of twelve (12) months after the date the insured's claim is paid or 90 days prior to the expiration of the statute of limitations for negligence actions, the insurer notifies the insured in writing that the insurer does not intend to pursue further collection actions against the third party and authorizes the insured to pursue further collection actions."

Amendment 2.

Page 2, lines 10-11, inserts proposed Subsection (f) into Article 21.79E, Insurance Code, as follows: "(f) The Commissioner shall have authority to enforce this article and is authorized to promulgate and enforce reasonable rules and regulations as is necessary for the accomplishment of the purposes of this article."