

## **BILL ANALYSIS**

Senate Research Center  
81R23437 PB-D

C.S.S.B. 1812  
By: Duncan  
State Affairs  
4/16/2009  
Committee Report (Substituted)

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

Certain provisions in Chapter 542 (Processing and Settlement of Claims), Insurance Code, state that if a life insurance claim is not paid within 60 days, an insurer can be held liable for damages. However, if a life insurer has two or more legitimate claimants to the proceeds, the insurer must file an interpleader action within those 60 days to avoid possible penalties. These provisions conflict with Section 1103.102(b) (relating to a company that issues a life insurance policy not being required to pay the proceeds of the policy to a designated beneficiary under certain conditions), Insurance Code, which provides that a company is not required to pay policy proceeds if the company receives notice of a legitimate adverse claim.

Until 2007, the courts had recognized a common law exception for requirements in Chapter 542 related to life insurance claim payments. However, in *State Farm. Life Ins. Co. v. Martinez*, 216 S.W. 3d 799 (Tex. 2007) the Texas Supreme Court held that the common law exception did not survive the last codification of the statute. Absent this exception, a life insurer will have to file an interpleader in every situation in which a legitimate adverse interest exists because such situations can rarely, if ever, be resolved within 60 days.

C.S.S.B. 1812 amends current law relating to notice to a life insurer of an adverse claim to policy proceeds by a person with a bona fide legal claim.

### **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 Section 542.058, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that Subsection (a), rather than this section, does not apply if the insurer is a life insurer, and on notice of an adverse claim to life insurance policy proceeds from a person who has a bona fide legal claim to all or part of the proceeds. Makes nonsubstantive changes.

(c) Requires a life insurer eligible for the exemption described by Subsection (b)(2) (relating to insurer conditions) to pay the claim not later than the later of the 90th day after the date the insurer receives all items, statements, and forms reasonably requested and required under Section 542.055 (Receipt of Notice of Claim) or the 90th day after the date the insurer receives notice of the adverse claim. Requires a life insurer that delays payment of the claim under this subsection for more than 90 days, notwithstanding any other law, to pay damages and other items as provided by Section 542.060 (Liability for Violation of Subchapter).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.