

SUBJECT: Requiring lienholders to endorse insurance claim checks within 14 days

COMMITTEE: Financial Institutions — favorable, with amendment

VOTE: 9 ayes — Marchant, Gutierrez, Ehrhardt, Elkins, Giddings, Grusendorf, Patterson, Smith, Solomons
0 nays

WITNESSES: For — Rob Schneider, Consumers Union
Against — None

BACKGROUND : When a bank or other lender is listed as the loss payee on an auto, homeowner's or personal property insurance policy, a check written to pay a claim must be endorsed by both the policyholder and the lender.

The Insurance Code requires lenders holding a homeowner's insurance claim payment pending completion of all or part of the repairs to either release the funds within 10 days of a request for endorsement or to explain in specific detail the reason for refusing to pay the proceeds to the insured and the actions the insured must take for the lender to release the funds. Lenders who fail to comply with these requirements must pay must pay the insured 10 percent interest on the money held from the time of the request until the money is paid.

DIGEST: HB 906, as amended, would require a lienholder to endorse a check or draft in payment of an insurance claim within 14 days of the date the endorsement was requested or provide a written statement of the reason for denial. A lienholder who failed to comply would be subject to civil penalties of up to \$500 and could be sued by the attorney general.

HB 906 would take effect September 1, 1997.

SUPPORTERS SAY: HB 906 would extend to auto and personal property policyholders the same protection in the law that homeowners now have regarding prompt endorsement of insurance claim checks. Without this protection, an auto policyholder may be forced to wait weeks or even months to make needed

repairs because a lender fails to endorse an insurance claim check in a timely manner. Many auto body and repair shops refuse to begin repairs without a partial deposit. Not many will release a repaired vehicle without full payment. If a lender will not endorse a claim check promptly, the policyholder may have to come up with the cash or be left without transportation for weeks.

In many cases, delays in endorsing insurance claim checks occur simply because lenders do not make this matter a priority. Insurers are subject to consumer protection rules requiring prompt payment of claims; lenders should not be allowed to harm the consumer by slowing the payment process, regardless of whether the delay is deliberate or inadvertent. A potential civil penalty of up to \$500 should be a strong incentive for lenders to make an effort to provide the endorsement, or explain why not in writing, in a timely manner.

While lenders may complain that 14 days is not enough time to respond to requests for endorsements, two weeks seems like forever to someone who is without transportation. Furthermore, most business transactions specify a 10-day processing period. Two weeks is ample time for lenders to respond to a request for endorsement.

HB 906 would apply to both personal and commercial policyholders, because any policyholder, regardless of the size of the claim, is entitled to have this issue addressed in a timely manner. If the claim is too complex to be handled within 14 days, the policyholder is entitled to a prompt written explanation.

**OPPONENTS
SAY:**

HB 906 attempts to micro-manage private business transactions by imposing an inflexible time limit on lienholder endorsements of insurance claim checks. Lenders may hold off on endorsing an insurance claim check for several legitimate reasons. For example, a lender may want to be sure the work is completed before paying for a repair covered by an insurance claim. As a partial owner of the property, the lender has a legitimate interest in ensuring that it is properly repaired, or, if not, that the claim payment is used to pay down the loan to reflect the property's diminished value.

**OTHER
OPPONENTS
SAY:**

The 14-day requirement should be changed to 21 days to allow sufficient time for the lender to respond. If a request for an endorsement is delivered to a branch office, it may be several days before the main office even receives it. A lender should not be subject to a \$500 fine simply because of delays created in the normal course of business.

HB 906 could conflict with existing provisions of the Insurance Code that spell out procedures for handling insurance payments for homeowner's insurance policyholders.

NOTES:

Rep. McCall plans to introduce a floor amendment to specify that HB 906 would apply only to auto and personal property insurance.

The committee amendment to HB 906 would stipulate that the bill covers drafts as well as checks requiring endorsement.