

SUBJECT: Recovering deductibles from liable third parties

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis
0 nays
2 absent — Olivo, Wise

SENATE VOTE: On final passage, April 10 — 31-0

WITNESSES: For — Pat Smith, Texas Farm Bureau Insurance Company; Jay Thompson, Association of Fire and Casualty Companies of Texas
Against — None
On — Rod Bordelon, Office of Public Insurance Counsel; David Durden, Texas Department of Insurance

BACKGROUND : Under the Insurance Code, an insurer liable to an insured party for a claim under a private motor vehicle policy subject to a deductible for which a third party may be liable must bring action to recover the deductible no later than six months after the claim is made. Otherwise the insurer is liable to pay the amount of the deductible to the insured. This provision does not apply if by six months after the claim is made, the insurer notifies the insured in writing that it will not bring action against the third party and authorizes the insured to bring the action.

DIGEST: SB 1106 would amend the Insurance Code to extend the time frame for an insurer to bring action to recover a deductible under an automobile policy from a third party or pay the deductible to the insured. The new deadline would be 12 months after the insurer paid the claim.

This provision would not apply if the insurer notified the insured that it did not intend to pursue further collection actions and authorized the insured to pursue such actions. This notification would have to occur within 12

months of the date the claim was paid or 90 days prior to the expiration of the statute of limitations for negligence, whichever was earlier.

SB 1106 would specify that these provisions would be intended to encourage insurers to take appropriate and necessary steps to collect from third parties or their insurers. The bill would define the phrase “bring an action” as intended to include various courses of actions, such as reasonable and diligent collection efforts, mediation, arbitration, or litigation against responsible third parties or their insurers.

The bill would authorize the insurance commissioner to promulgate and enforce reasonable rules and regulations as necessary to accomplish the stated purposes.

SB 1106 would take effect September 1, 1997, or immediately if finally passed by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

SB 1106 would encourage insurers to take all necessary and appropriate steps to collect deductibles from third parties liable for an automobile accident or damage. The bill would provide additional time for the insurer to collect using all available means, ranging from litigation to arbitration and mediation. Given the number of claims that require such action, expanding the deadline would better allow insurers to perform their duties rather than passing the task of collecting on to the insured.

SB 1106 enjoys broad support from insurance companies and consumer organizations alike. By authorizing the Texas Department of Insurance to generate any regulations necessary to assist in recovering deductibles from third parties, the bill would ensure better protection for consumers and more efficient procedures for insurers.

**OPPONENTS
SAY:**

No apparent opposition.