

SUBJECT: Allowing notice via payment of an insurer's acceptance of a claim

COMMITTEE: Insurance — favorable, without amendment

VOTE: 5 ayes — Smithee, Hancock, Hunter, Taylor, Thompson
3 nays — Martinez Fischer, Deshotel, Eiland
1 absent — Isett

SENATE VOTE: On final passage, April 30 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 4242:*)
For — (*Registered, but did not testify:* Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Mark Kincaid, Texas Trial Lawyers Association; Thomas Ratliff, American Insurance Association; Joe Woods, Property Casualty Insurers Association of America)
Against — None

BACKGROUND: Insurance Code, sec. 542.056 requires an insurer to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer receives all items, statements, and forms required by the insurer to secure final proof of loss. The time for notice may be extended to 30 days when an insurer has a reasonable basis to believe that a loss resulted from arson, and to 45 days when the insurer needs more time to accept or reject a claim.

Insurers frequently pay the amount owed for a claim within the 15-business-day timeframe, often by depositing the funds in the claimant's bank account through an electronic funds transfer. Under current law, however, the payment of a claim within the timeframe does not relieve the insurer of the obligation to send written notice to the claimant. In many cases, a claimant receives the insurer's letter of acceptance of the claim after receiving payment.

DIGEST: SB 1335 would amend Insurance Code, sec. 542.056 to provide that if an insurer paid a claim not later than the 15th business day after the date the

insurer received all items, statements, and forms required by the insurer to secure final proof of loss, the payment of the claim would constitute notice of the insurer's acceptance of the claim, and the insurer would not have to provide any other notice. If an insurer had a reasonable basis that a claim of loss resulted from arson, the insurer could satisfy the notice requirement by paying the claim not later than the 30th day the insurer received all items, statements, and forms required by the insurer to secure final proof of loss.

"Payment" by an insurer would include an electronic funds transfer to an account identified by a person making a claim.

If an insurer made a partial payment or rejected any portion of a claim, the insurer would have to include written notice with the partial payment stating the reason for the rejection.

The bill would apply only to a claim filed on or after the bill's September 1, 2009 effective date.

NOTES:

The companion bill, HB 4242 by Smithee, was reported favorably as substituted by the House Insurance Committee on April 22 and placed on, then withdrawn from, the Local, Consent, and Resolutions Calendar.