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## [The Texas Prompt Payment Statute Protects Policyholders](#)

*(Note: This Guest Blog is by [Tina Nicholson](#), an attorney with Merlin Law Group in the [Houston, Texas, office](#). This is the [fourth in a series](#) she and fellow attorney [Javier Delgado](#) will be writing on Texas property insurance issues).*

Most Texas policyholders do not know what the law requires of insurance companies in regard to responding to a claim. The “Prompt Payment of Insurance Claims” statute in Chapter 542 of the Texas Insurance Code imposes certain deadlines on insurers for responding to, investigating, and accepting or rejecting claims. An insurer that violates the statute must pay, in addition to the amount owed on the claim, the insured’s attorney fees as well as “damages” of 18% per annum. In order to recover attorney fees and the 18% interest, the policyholder must show that (1) the policyholder had a claim under the policy; (2) the insurer is liable for the claim; and (3) the insurer failed to comply with a requirement of the statute. The purpose of the statute is to “promote the prompt payment of insurance claims pursuant to policies of insurance.” [Tex. Ins. Code Ann. §542.054](#).

It should be noted that the statute was previously codified as Article 21.55. In 2005, it was recodified as [Texas Insurance Code §§ 542.051 to 542.061](#). Many authorities still cite to Article 21.55.

The statute requires the policyholder to give the insurer written notice of the claim. A telephone call does not trigger the statute. Many insurers have toll-free numbers for claims reporting and accept claims by telephone. However, only written notice of the claim will generate the deadlines under the Prompt Payment Statute. No particular form of written notice is required, as long as the written notice “reasonably apprises the insurer of the facts relating to the claim.” [Tex. Ins. Code Ann. § 542.051\(4\)](#).

Written notice to the insurance company triggers four initial duties:

1. The insurer must acknowledge receipt of the claim. *Tex. Ins. Code §542.055(a)(1)*.
2. If the acknowledgement is not in writing, the insurer must make a record of the date, means and content of the acknowledgement. *Tex. Ins. Code §542.055(c)*.
3. The insurer must begin investigation of the claim. *Tex. Ins. Code §542.055(a)(2)*.
4. The insurer must request all items, statements and forms that the insurer reasonably believes, at that time, will be required from the claimant. *Tex. Ins. Code §542.055(a)*.

The statute gives most insurers fifteen days after notice of the claim to perform those duties. Certain surplus lines

carriers have thirty business days. *Tex. Ins. Code* §542.055(a).

Once the insurer receives all items, statements and forms requested by the insurer, seven new duties arise:

1. By the fifteenth business day, the insurer must notify the policyholder that it accepts or rejects the claim. *Tex. Ins. Code* §542.056(a). The insurer can get a forty-five day extension of time. *Tex. Ins. Code* §542.056(d).
2. If the insurer rejects the claim, the notice must state the reasons. *Tex. Ins. Code* §542.056(c).
3. If the insurer is unable to accept or reject the claim by the deadline, the insurer may notify the policyholder and state the reasons the insurer needs more time. *Tex. Ins. Code* §542.056(d).
4. If the insurer obtains the forty-five day deadline, the insurer must accept or reject the claim within that time. *Tex. Ins. Code* §542.056(d).
5. If the insurer accepts the claim, the insurer must pay the claim within five business days. Surplus lines insurers have twenty business days. *Tex. Ins. Code* §542.057(a), (c).
6. If the insurer conditions payment on some act by the claimant, the insurer must pay within five business days after the act is performed. Again, surplus lines insurers have twenty business days. *Tex. Ins. Code* §542.057(b), (c).
7. The insurer must pay the claim within sixty days after receiving the items it requested from the policyholder. *Tex. Ins. Code* §542.058(a).

The seventh requirement is important because an insurer can automatically violate the statute by failing to pay a claim within sixty days of receiving the items requested from the policyholder. An insurer that obtains a forty-five day extension of time could exceed the sixty-day requirement for payment, but the wording of Section 542.058(a) seems to excuse insurers from the sixty-day deadline of §542.058 if they meet the deadlines set out in §§ 542.056 and 542.057.

The 18% interest applies to the entire claim, minus any partial payments. However, if the insurer's partial payments were not unconditional, the interest applies to the entire claim. See [\*Republic Underwriters Ins. Co. v. Mex-Tex, Inc.\*, 150 S.W.3d 423, 426 \(Tex. 2004\)](#). The interest runs from the payment deadline until the payment is made, or the date of judgment. *Id.*

It is important to note that that the Prompt Payment Statute does not apply to payments made where there is an appraisal award. [\*Breshears v. State Farm Lloyds\*, 155 S.W.3d 340 \(Tex.App. Corpus. Christi 2004\)](#). In that case, the court determined that the extra-judicial remedy of insurance claim appraisal precluded a finding that the insurer had breached the insurance contract, so that penalties and damages were not proper.

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In the UK an insurance company can refuse to pay out on a policy if something was not disclosed even if it's not relevant to the claim been made. There is no law as such which states an insurer cannot do this. Our laws go back to 1906 and have not been updated with modern times. Basically it's up to the individual over here to state these things and not up to the insurer to ask which is totally wrong. Obviously there's routes one can take if this happens. Is this true in the USA also?

