

Honorable House Members and Speaker of the House Joe Straus:

The Willis Group Family of Companies is a Houston-area staffing firm whose founders have provided temporary staffing for Texas-based businesses for over forty years. Our clients rely on the Willis Group for continuity in running their businesses and our temporary employees rely on the Willis Group for sustained and consistent employment.

As part of our business, we must insure ourselves on several different levels, to protect our clients' interests, our own business interests, against property claims, both real and tangible, and for the protection of our many permanent and temporary employees. We rely both on our liability insurance as well as our vendors' and contractors' insurance to protect us should claims arise.

We oppose SB 1628 because it strips away all real meaning from the insurance contracts we purchase by eliminating the fundamental protections traditionally provided to policyholders in Texas. In so doing, SB 1628 will unreasonably increase the financial exposure of every insured in Texas by shifting financial risk to the insureds and allowing insurers to avoid their obligations with impunity. The obligations of an insurer that are part and parcel to the contractual relationship they enter into with their policyholders should not be diminished by legislative action.

Insurance is not solely for the protection of the purchaser of policies, but also other entities and individuals that rely on satisfactory and timely payment as third-party beneficiaries of those policies. SB 1628 would significantly impair our ability to protect ourselves, our clients and our employees from losses by allowing insurers to delay payment and defense of claims with no incentive to do otherwise.

We pay insurance premiums as part of the cost of doing business and we pay them to protect our business. The purchase of insurance has become inextricably part of our business relationships, and in many cases a legal requirement. As businesses, we are required by our clients and by the government to hold certain policies and presumably are free to enter into an insurance contract and negotiate the terms based on a cost/risk analysis. By its terms, SB 1628 forces terms into insurance contracts already in place, fundamentally changing them. In pure contract terms, these would be defined as material changes that a party would not agree to without a corresponding change to the consideration given in exchange.

SB 1628l converts the insurance contract into a document of optional conditions under which the insurer can determine with limited or no justification, unscrupulously or otherwise, that it has no obligation. This bill undermines accountability for insurance companies, eliminates accountability for agents and adjusters, creates bogus defenses and provides significant disincentives for insurers to promptly examine and pay claims.

For example, the following list of protections provided by the bill creates all but legislative immunity for insurers:

1. Elimination of late-payment penalties, incentivizing insurers to permanently delay payment of a claim, regardless of its obvious merit.

2. Arduous pre-litigation requirements placed on insureds making judicial intervention extremely difficult to obtain.
3. Immunizes adjusters for flagrantly disregarding standard adjusting practices, no matter how unfair an estimate or illegitimate a claim denial, legitimizing a standardized practice of underpayment or non-payment of claims.
4. Criminalizes even good faith estimates of insured if such estimates are found to be too high.

Insurance claims are difficult enough under the current law. If SB 1628 were the law, the insurance company would have had no incentive to fairly pay claims, while simultaneously being subsidized by its policyholders. Instead, SB 1628 gives the insurer defenses and exemptions that make bad faith profitable. Deny, delay, and underpay are the usual tactics employed by the carriers when dealing with their policyholders. If SB 1628 passes, there will be no accountability for the insurance companies.

There are an increasing number of examples of governmental intervention to protect large institutions who make bad decisions based on poor risk analysis. The insurance industry, by its very nature, ostensibly has the highest level of expertise in analyzing insurable risk. However, it now seeks to take a significant portion of the risk for which it is paid handsomely, and transfer it to the individuals and entities paying for that very protection. The legislature does not need to protect insurance companies from their own inability to appropriately measure the risks they accept, rather it should remain incumbent on the insurance companies do their due diligence and accept the consequences for doing it poorly.

SB 1628 contains harmful burden and risk shifting provisions that devalue the insurance policies for which The Willis Group and all other Texas insureds pay a significant amount. We are vehemently opposed to this legislation.

Very truly yours,



David P. Olener
General Counsel
The Willis Group, LLC