

Amend CSHB 730 (Senate committee printing) as follows:

(1) In SECTION 1.01, following added Subtitle D, Title 16, Property Code (page 17, between lines 8 and 9), insert:

SUBTITLE E. RESIDENTIAL CONSTRUCTION ARBITRATION

CHAPTER 436. GENERAL PROVISIONS

Sec. 436.001. DEFINITIONS. In this subtitle:

(1) "Arbitration" means the procedure for dispute resolution described by Section 154.027, Civil Practice and Remedies Code.

(2) "Arbitration services provider" means a person that holds itself out as:

(A) managing, coordinating, or administering arbitrations;

(B) providing the services of arbitrators;

(C) making referrals or appointments to arbitrators; or

(D) providing lists of arbitrators.

(3) "Arbitrator" means a neutral individual who hears the claims of the parties to a dispute and renders a decision and who is:

(A) chosen by the parties to the dispute;

(B) appointed by a court; or

(C) selected by an arbitration services provider under an agreement of the parties or applicable rules.

Sec. 436.002. APPLICABILITY. (a) This subtitle applies only to an arbitration of a dispute between a homeowner and a builder that involves an alleged construction defect.

(b) The requirements of this subtitle supplement Chapter 171, Civil Practice and Remedies Code, and the Federal Arbitration Act (9 U.S.C. Sections 1-16), as amended.

Sec. 436.003. VENUE. (a) An arbitration of a dispute involving a construction defect shall be conducted in the county in which the home alleged to contain the defect is located.

(b) The requirements of this section may not be waived by contract.

Sec. 436.004. RESIDENTIAL CONSTRUCTION ARBITRATION TASK FORCE. (a) The commission shall appoint a task force to study

residential arbitrators and arbitration and advise the commission with respect to residential arbitrators and arbitration.

(b) The task force established under this section shall report to the 79th and 80th legislatures on the task force's recommendations and the effect of the implementation of those recommendations and of the provisions relating to arbitrators and arbitration in this subtitle. This subsection expires September 1, 2007.

CHAPTER 437. REPORTING REQUIREMENTS

Sec. 437.001. AWARD FILING. (a) If an arbitration award is filed in a court of competent jurisdiction in this state, the filer shall also, not later than the 30th day after the date an award is made in a residential construction arbitration, the arbitrator who conducts the arbitration or, if an arbitration services provider administers the arbitration, the services provider shall file with the commission a summary of the arbitration award that includes:

- (1) the names of the parties to the dispute;
- (2) the name of each party's attorney, if any;
- (3) the name of the arbitrator who conducted the arbitration;
- (4) the name of the arbitration services provider who administered the arbitration, if any;
- (5) the fee charged to conduct the arbitration;
- (6) a general statement of each issue in dispute;
- (7) the arbitrator's determination, including the party that prevailed in each issue in dispute and the amount of any monetary award; and
- (8) the date of the arbitrator's award.

(b) The commission shall establish rules to permit the voluntary filing of the information listed in subsection (a) by any interested party. Any agreement prohibiting the disclosure of the information listed in subsection (a) is unenforceable.

Sec. 437.002. ENFORCEMENT. (a) The commission by rule shall establish a fee not to exceed \$100 for the late filing of an arbitration award and procedures for the collection of that fee.

(b) A party to an arbitration, or an attorney for a party, may report an overdue filing of an arbitration award to the

commission.

CHAPTER 438. ENFORCEABILITY OF RESIDENTIAL
CONSTRUCTION ARBITRATION AWARDS

Sec. 438.001. GROUNDS FOR VACATING AWARD. In addition to grounds for vacating an arbitration award under Section 171.088, Civil Practice and Remedies Code, on application of a party, a court shall vacate an award in a residential construction arbitration upon a showing of manifest disregard for Texas law.

(2) In ARTICLE 1 of the bill, following SECTION 1.05 (page 17, between lines 41 and 42), insert the following new SECTION, numbered appropriately:

SECTION 1.____. (a) Section 436.003, Property Code, as added by this article, governs the venue of an arbitration initiated on or after the effective date of this Act under a residential construction contract entered into before, on, or after the effective date of this Act, unless otherwise provided by a contract entered into before the effective date of this Act.

(b) Chapter 437, Property Code, as added by this article, applies only to an arbitration initiated on or after January 1, 2004. An arbitration initiated before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Chapter 438, Property Code, as added by this article, applies only to an arbitration initiated on or after the effective date of this Act. An arbitration initiated before that date is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.