

By: Herrero

H.B. No. 3443

A BILL TO BE ENTITLED

AN ACT

relating to relief for residential property owners; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. RESIDENCE HOMESTEAD EXEMPTION FROM

AD VALOREM TAXATION BY SCHOOL DISTRICTS

SECTION 1.01. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$45,000 [~~\$15,000~~] of the appraised value of the adult's residence homestead, except that \$40,000 [~~\$10,000~~] of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION 1.02. This article takes effect January 1, 2006, but only if the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes is approved by the voters. If that amendment is not approved by the voters, this article has no effect.

ARTICLE 2. PRIOR APPROVAL OF RESIDENTIAL PROPERTY

INSURANCE RATES AND POLICY FORMS

SECTION 2.01. Article 5.13(a), Insurance Code, is amended

1 to read as follows:

2 (a) This subchapter applies to every insurance company,
3 corporation, interinsurance exchange, mutual, reciprocal,
4 association, Lloyd's plan, or other organization or insurer writing
5 any of the characters of insurance business herein set forth,
6 hereinafter called "Insurer"; provided that nothing in this entire
7 subchapter shall be construed to apply to any county or farm mutual
8 insurance company or association, as regulated under Chapters 911
9 and 912 of this code, except that Article 5.13-2 of this code shall
10 apply to a county mutual insurance company with respect to personal
11 automobile and commercial automobile insurance, [~~residential and~~]
12 commercial property insurance, and inland marine insurance.

13 SECTION 2.02. Section 2, Section 5.13-2, Insurance Code, is
14 amended by amending Subsection (a) and adding Subsection (c) to
15 read as follows:

16 (a) This article applies to all lines of the following
17 insurance written under policies or contracts of insurance issued
18 by an insurer authorized to engage in the business of insurance in
19 this state:

20 (1) general liability insurance;

21 (2) [~~residential and~~] commercial property insurance,
22 including farm and ranch insurance and farm and ranch owners
23 insurance;

24 (3) personal and commercial casualty insurance,
25 except as provided by Subsection (b) of this section;

26 (4) medical professional liability insurance;

27 (5) fidelity and surety bonds other than criminal

1 court appearance bonds;

2 (6) personal umbrella insurance;

3 (7) personal liability insurance;

4 (8) guaranteed auto protection (GAP) insurance;

5 (9) involuntary unemployment insurance;

6 (10) financial guaranty insurance;

7 (11) inland marine insurance;

8 (12) rain insurance;

9 (13) hail insurance on farm crops; and

10 (14) personal and commercial automobile insurance.

11 (c) Notwithstanding any other law, rates and forms for
12 residential property insurance are governed by Subchapters C, L,
13 and U, Chapter 5, of this code.

14 SECTION 2.03. Article 5.96(a-1), Insurance Code, is amended
15 to read as follows:

16 (a-1) This article does not apply to the setting of rates
17 for [~~personal automobile insurance under Article 5.101 of this~~
18 ~~code, rates for fire and allied lines insurance under Subchapter Q~~
19 ~~of this chapter or, on and after December 1, 2004, rates for~~
20 ~~personal automobile insurance and fire and allied] lines of
21 insurance subject to [~~under~~] Article 5.13-2 of this code. This
22 article applies to the setting of rates for residential property
23 insurance.~~

24 SECTION 2.04. The heading to Article 5.145, Insurance Code,
25 is amended to read as follows:

26 Art. 5.145. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE
27 COVERAGE [~~AND RESIDENTIAL PROPERTY INSURANCE COVERAGE~~]

1 SECTION 2.05. Section 1(1), Article 5.145, Insurance Code,
2 is amended to read as follows:

3 (1) "Insurer" means an insurance company, reciprocal
4 or interinsurance exchange, mutual insurance company, capital
5 stock company, county mutual insurance company, Lloyd's plan, or
6 other legal entity authorized to write personal automobile
7 insurance [~~or residential property insurance~~] in this state. The
8 term includes an affiliate, as described by this code, if that
9 affiliate is authorized to write and is writing personal automobile
10 insurance [~~or residential property insurance~~] in this state. The
11 term does not include[+]

12 [~~(A) the Texas Windstorm Insurance Association~~
13 ~~under Article 21.49 of this code;~~

14 [~~(B) the FAIR Plan Association under Article~~
15 ~~21.49A of this code; or~~

16 [~~(C)~~] the Texas Automobile Insurance Plan Association under
17 Article 21.81 of this code.

18 SECTION 2.06. Section 2, Article 5.145, Insurance Code, is
19 amended to read as follows:

20 Sec. 2. REGULATION OF POLICY FORMS AND ENDORSEMENTS. (a)
21 Notwithstanding any other provision in this code and except as
22 provided by this section, an insurer is governed by the provisions
23 of Section 8, Article 5.13-2 of this code, relating to policy forms
24 and endorsements for personal automobile insurance [~~and~~
25 ~~residential property insurance~~].

26 (b) An insurer may continue to use the policy forms and
27 endorsements promulgated, approved, or adopted under Article

1 [Articles] 5.06 [~~and 5.35~~] of this code on notification to the
2 commissioner in writing that the insurer will continue to use those
3 forms.

4 SECTION 2.07. Article 5.171, Insurance Code, is amended to
5 read as follows:

6 Art. 5.171. RATING TERRITORIES. Notwithstanding any other
7 provision of this code, an insurer, in writing any insurance in this
8 state including residential property insurance, may not use rating
9 territories that subdivide a county unless:

- 10 (1) the county is subdivided; and
11 (2) the rate for any subdivisions within that county
12 is not greater than 15 percent higher than the rate used in any
13 other subdivisions in the county by that insurer, except that the
14 commissioner may by rule allow a greater rate difference for
15 [~~residential property insurance or~~] personal automobile insurance.

16 SECTION 2.08. Section 912.002(b), Insurance Code, is
17 amended to read as follows:

- 18 (b) A county mutual insurance company is subject to:
19 (1) Sections 38.001, 501.202, 501.203, and 822.204;
20 (2) Chapters 221, 251, 252, 254, and 541; [~~and~~]
21 (3) [~~(2)~~] Articles 1.15, 1.15A, 1.16, [1.35B] 2.10,
22 [~~4.10~~] 5.12, 21.21-12, [~~5.37, 5.38, 5.39, 5.40, 5.49, 21.21~~] and
23 21.49; and
24 (4) Subchapters C, L, and U, Chapter 5.

25 SECTION 2.09. Section 941.003(b), Insurance Code, is
26 amended to read as follows:

- 27 (b) A Lloyd's plan is subject to:

- 1 (1) Section 5, Article 1.10;
- 2 (2) Article 1.15A;
- 3 (3) Subchapters A, C, L, [~~Q, T~~] and U, Chapter 5;
- 4 (4) Chapters 251, 252, and 541;
- 5 (5) Articles 21.21-12 [~~5.35, 5.38, 5.39, 5.40, and~~
- 6 ~~5.49~~;
- 7 [~~(5) Articles 21.21~~] and 21.49-8;
- 8 (6) Sections 822.203, 822.205, 822.210, and 822.212;
- 9 and
- 10 (7) Article 5.13-2, as provided by that article.

11 SECTION 2.10. Section 942.003(b), Insurance Code, is
12 amended to read as follows:

13 (b) An exchange is subject to:

- 14 (1) Section 5, Article 1.10;
- 15 (2) Articles 1.15, 1.15A, and 1.16;
- 16 (3) Subchapters A, C, L, [~~Q, T~~] and U, Chapter 5;
- 17 (4) [~~Articles 5.35, 5.37, 5.38, 5.39, and 5.40~~;
- 18 [~~(5)~~] Articles 21.21-12 [~~21.21~~] and 21.49-8;
- 19 (5) Chapter 541;
- 20 (6) Sections 822.203, 822.205, 822.210, 822.212,
- 21 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and
- 22 (7) Article 5.13-2, as provided by that article.

23 SECTION 2.11. The following laws are repealed:

- 24 (1) Article 5.25(b), Insurance Code;
- 25 (2) Article 5.25A(b), Insurance Code;
- 26 (3) Article 5.26(i), Insurance Code;
- 27 (4) Article 5.29(b), Insurance Code;

1 (5) Article 5.30(b), Insurance Code;

2 (6) Article 5.31(b), Insurance Code;

3 (7) Article 5.32(b), Insurance Code;

4 (8) Article 5.34(b), Insurance Code;

5 (9) Article 5.35(k), Insurance Code, as added by
6 Section 21.22, Chapter 206, Acts of the 78th Legislature, Regular
7 Session, 2003;

8 (10) Article 5.39(b), Insurance Code;

9 (11) Article 5.40(d), Insurance Code;

10 (12) Article 5.41(b), Insurance Code; and

11 (13) Section 1(3), Article 5.145, Insurance Code.

12 SECTION 2.12. This article applies only to an insurance
13 policy that is delivered, issued for delivery, or renewed on or
14 after January 1, 2006. A policy that is delivered, issued for
15 delivery, or renewed before January 1, 2006, is governed by the law
16 as it existed immediately before the effective date of this Act, and
17 that law is continued in effect for this purpose.

18 ARTICLE 3. RATE FILING AND RATE ASSESSMENT

19 FOR RESIDENTIAL PROPERTY INSURANCE

20 SECTION 3.01. Subchapter B, Chapter 5, Insurance Code, is
21 amended by adding Article 5.14 to read as follows:

22 Art. 5.14. FILING OF RESIDENTIAL PROPERTY INSURANCE RATES
23 FOR RATE ASSESSMENT

24 Sec. 1. APPLICABILITY; DEFINITIONS. (a) This article
25 applies only to residential property insurance.

26 (b) The definitions under Article 5.13-2 of this code apply
27 to this article.

1 Sec. 2. CONSTRUCTION WITH OTHER LAW. (a) Notwithstanding
2 any other law, rates for residential property insurance are
3 governed by this article from the effective date of this article
4 until the completion of the rate assessment under this article and
5 any resulting hearings or other proceedings under this article.

6 (b) When the rate assessment and any resulting hearings or
7 other proceedings under this article are completed, rates for
8 residential property insurance are governed by Subchapters C, L,
9 and U, Chapter 5, of this code.

10 Sec. 3. RATE STANDARDS. (a) A rate filed by an insurer
11 under Section 4 of this article or a rate ordered by the
12 commissioner following a rate hearing under Section 5 of this
13 article may not be excessive, inadequate, unfairly discriminatory,
14 or unreasonable.

15 (b) A rate ordered by the commissioner following a rate
16 hearing under Section 5 of this article must comply with the rate
17 standards described by Subsection (a) of this section and may not be
18 confiscatory.

19 Sec. 4. RATE FILING; RATE ASSESSMENT. (a) Not later than
20 the 20th day after the effective date of this article, each insurer
21 writing residential property insurance that is also subject to
22 Subchapter C, Chapter 5, of this code shall file with the
23 commissioner the insurer's rates, supporting information, and
24 supplementary rating information. If the insurer has made a rate
25 filing under Article 5.13-2 of this code not more than 30 days
26 before the effective date of this article, the insurer may:

27 (1) notify the department that the insurer is using

1 the rate filing submitted under Article 5.13-2 of this code to
2 comply with the requirements of this article; or

3 (2) file an update to the material filed under Article
4 5.13-2 of this code.

5 (b) If, after reviewing a filing under Subsection (a) of
6 this section, the commissioner determines that the filing does not
7 contain information sufficient to allow the commissioner to
8 determine if the filed rate meets all rate standards under Section 3
9 of this article, not later than the 10th day after the insurer makes
10 the filing, the commissioner may request in writing any specific
11 additional information from the insurer necessary to make the
12 determination.

13 (c) Not later than the 30th day after the date the
14 department receives an insurer's filing under Subsection (a) of
15 this section, the commissioner shall:

16 (1) if the filed rate meets all rate standards under
17 Section 3 of this article, approve the filed rate; or

18 (2) if the filed rate fails to meet any rate standard
19 under Section 3 of this article, disapprove the filed rate and issue
20 an order specifying in what respects the filed rate fails to comply
21 with the rate standards.

22 Sec. 5. HEARING. If the commissioner disapproves a rate
23 under Section 4(c)(2) of this article, the department shall hold a
24 rate hearing and the commissioner shall issue an order in
25 accordance with Chapter 40 of this code.

26 Sec. 6. JUDICIAL REVIEW. (a) Not later than the 10th day
27 after the date an insurer receives the commissioner's order issued

1 under Section 5 of this article, the insurer may file a petition for
2 judicial review in a district court of Travis County. The standard
3 of review of the commissioner's order is substantial evidence.

4 (b) During the pendency of an appeal under this section, the
5 insurer may charge either the insurer's existing rates or the rate
6 ordered by the commissioner under Section 5 of this article.

7 Sec. 7. REFUND. If on final appeal a court upholds the
8 commissioner's order issued under Section 5 of this article, the
9 insurer shall refund the difference in overcharged premium, if any,
10 plus interest to each policyholder. The interest rate is the prime
11 rate for the calendar year in which the refund is issued, plus six
12 percent.

13 Sec. 8. CERTAIN SETTLEMENTS PROHIBITED. If an insurer
14 files a petition for judicial review under Section 6 of this
15 article, the department may not agree to a settlement of the lawsuit
16 in any amount that is less than the amount of the refund, including
17 interest, that the insurer would be obligated to pay under Section 7
18 of this article.

19 Sec. 9. EXPIRATION. (a) This article expires September 1,
20 2006.

21 (b) The expiration of this article does not affect an action
22 or proceeding against an insurer subject to this article for a
23 failure to comply with this article before the expiration of this
24 article, regardless of when the action or proceeding was commenced,
25 and this article is continued in effect only for that purpose.

26 SECTION 3.02. This article applies to a residential
27 property insurance policy that is delivered, issued for delivery,

1 or renewed on or after the effective date of this Act and to rates
2 for such a policy. A residential property insurance policy
3 delivered, issued for delivery, or renewed before the effective
4 date of this Act and the rates for such a policy are governed by the
5 law as it existed immediately before the effective date of this Act,
6 and that law is continued in effect for that purpose.

7 ARTICLE 4. USE OF CERTAIN POLICY FORMS

8 SECTION 4.01. Article 5.35, Insurance Code, is amended by
9 adding Subsection (1) to read as follows:

10 (1) An insurer that offers a residential property insurance
11 policy in this state and that is authorized to offer a Homeowners
12 "B" policy form, as adopted by the commissioner, must write the
13 residential property insurance policy using a Homeowners "B" policy
14 form unless the insured rejects coverage under an HO-B policy in
15 writing.

16 SECTION 4.02. This article applies only to an insurance
17 policy that is delivered, issued for delivery, or renewed on or
18 after January 1, 2006. A policy that is delivered, issued for
19 delivery, or renewed before January 1, 2006, is governed by the law
20 as it existed immediately before the effective date of this Act, and
21 that law is continued in effect for this purpose.

22 ARTICLE 5. REGULATION OF UNDERWRITING GUIDELINES

23 SECTION 5.01. Subchapter B, Chapter 21, Insurance Code, is
24 amended by adding Article 21.21-12 to read as follows:

25 Article 21.21-12. REGULATION OF UNDERWRITING GUIDELINES

26 Sec. 1. DEFINITIONS. In this article:

27 (1) "Actuarially sound" means the underwriting

1 guideline is shown to differentiate among consumers who have
2 different expected costs associated with the transfer of risk, all
3 other relevant factors being the same.

4 (2) "Person" includes any individual or entity engaged
5 in the business of insurance, including any individual or entity
6 described by Section 82.002 of this code.

7 (3) "Residential property insurance" means insurance
8 against loss to real or tangible personal property at a fixed
9 location provided in a homeowners policy, a tenant policy, a
10 condominium owners policy, or a residential fire and allied lines
11 policy.

12 (4) "Underwriting guideline" means a rule, standard,
13 marketing decision, guideline, or practice, whether written, oral,
14 or electronic, used by an insurer or its agent to examine, bind,
15 accept, reject, renew, nonrenew, cancel, or limit coverages made
16 available to classes of consumers or individual consumers.

17 Sec. 2. PROHIBITION. A person may not use an underwriting
18 guideline for residential property insurance, other than
19 underwriting guidelines described by Section 3 of this article,
20 without the prior approval of the commissioner.

21 Sec. 3. PERMISSIBLE UNDERWRITING GUIDELINES. (a) A person
22 is not required to obtain the commissioner's prior approval to use
23 an underwriting guideline if the guideline complies with this
24 section.

25 (b) An underwriting guideline for residential property
26 insurance may be based on the following characteristics:

27 (1) the physical condition of the property to be

1 insured, provided the underwriting guideline has specific and
2 objective measures to evaluate the hazard;

3 (2) claim experience on a residential property policy
4 arising out of the owner's negligence;

5 (3) whether the structure to be insured is vacant or
6 unoccupied for more than 60 days;

7 (4) the making of a fraudulent insurance claim; or

8 (5) an act of arson.

9 (c) A person may use an underwriting guideline adopted by
10 the commissioner by rule. The commissioner may adopt an
11 underwriting guideline under this subsection only if the
12 commissioner determines after a hearing that the underwriting
13 guideline:

14 (1) is actuarially sound;

15 (2) promotes the mitigation of losses; and

16 (3) does not have an adverse impact based on the
17 insured's income level.

18 Sec. 4. PRIOR APPROVAL STANDARDS. (a) The commissioner may
19 not approve the use of an underwriting guideline unless the
20 underwriting guideline:

21 (1) is actuarially sound;

22 (2) promotes the mitigation of losses; and

23 (3) does not have an adverse impact based on the
24 insured's income level.

25 (b) The burden of proof in any proceeding regarding whether
26 an underwriting guideline is actuarially sound is on the party that
27 used or intends to use the underwriting guideline.

1 Sec. 5. CREDIT SCORING PROHIBITED. The commissioner may
2 not approve, and a person may not use, an underwriting guideline
3 based in whole or in part on credit scoring prohibited under Article
4 21.49-2U.

5 SECTION 5.02. This article applies only to an insurance
6 policy that is delivered, issued for delivery, or renewed on or
7 after January 1, 2006. A policy that is delivered, issued for
8 delivery, or renewed before January 1, 2006, is governed by the law
9 as it existed immediately before the effective date of this Act, and
10 that law is continued in effect for this purpose.

11 ARTICLE 6. CREDIT SCORING

12 SECTION 6.01. Article 21.49-2U, Insurance Code, is amended
13 by adding Section 3A to read as follows:

14 Sec. 3A. USE OF CREDIT INFORMATION IN WRITING CERTAIN
15 POLICIES PROHIBITED. (a) Notwithstanding any other provision of
16 this article, in writing a residential property insurance policy or
17 a residential fire and allied lines insurance policy, an insurer
18 may not:

19 (1) use an underwriting guideline that is based, in
20 whole or in part, on the credit information, credit report, or
21 credit score of an applicant for insurance coverage or any other
22 person other than the applicant who would be insured under a policy
23 of personal insurance;

24 (2) refuse to underwrite, cancel, or nonrenew the
25 policy based, in whole or in part, on the credit information, credit
26 report, or credit score of an applicant for insurance coverage or
27 any other person other than the applicant who would be insured under

1 the policy;

2 (3) take an action that results in an adverse effect
3 against a consumer because the consumer does not have a credit card
4 account;

5 (4) charge an applicant for the policy a higher
6 premium than otherwise would be charged based, in whole or in part,
7 on the credit information, credit report, or credit score of the
8 applicant or any other person other than the applicant who would be
9 insured under the policy;

10 (5) rate a risk based, in whole or in part, on the
11 credit information, credit report, or credit score of the applicant
12 or any other person other than the applicant who would be insured
13 under the policy, including:

14 (A) providing or removing a discount;

15 (B) assigning the applicant to a rating tier; or

16 (C) placing the applicant with an affiliated
17 company; or

18 (6) require a particular payment plan based, in whole
19 or in part, on the credit information, credit report, or credit
20 score of the applicant or any other person other than the applicant
21 who would be insured under the policy.

22 (b) An insurer may not consider an absence of credit
23 information or an inability to determine credit information for an
24 applicant for an insurance policy described by Subsection (a) or
25 insured as a factor in underwriting or rating the policy.

26 ARTICLE 7. WITHDRAWAL AND RESTRICTION PLANS

27 SECTION 7.01. Section 827.001, Insurance Code, is amended

1 by adding Subdivision (3) to read as follows:

2 (3) "Affiliate" has the meaning described by Section
3 823.003.

4 SECTION 7.02. Sections 827.006, 827.007, and 827.008,
5 Insurance Code, are amended to read as follows:

6 Sec. 827.006. [~~RESUMPTION OF~~] WRITING INSURANCE AFTER
7 [~~COMPLETE~~] WITHDRAWAL. An insurer that withdraws from writing all
8 lines of insurance or from writing residential property insurance
9 in this state and any affiliate of that insurer may not, without the
10 approval of the commissioner, write any line of [~~resume writing~~]
11 insurance in this state before the fifth anniversary of the date of
12 withdrawal.

13 Sec. 827.007. PENALTIES. The commissioner may impose the
14 civil penalties under Chapter 82 on an insurer that violates this
15 chapter [~~fails to obtain the commissioner's approval before the~~
16 ~~insurer:~~

17 [~~(1) withdraws from writing a line of insurance in~~
18 ~~this state, or~~

19 [~~(2) reduces the insurer's total annual premium volume~~
20 ~~by 75 percent or more in any year].~~

21 Sec. 827.008. RESTRICTION PLAN. (a) Before an insurer [~~7~~
22 ~~in response to a catastrophic natural event that occurred during~~
23 ~~the preceding six months,~~] may restrict writing new business or new
24 residential property insurance business in this state or a rating
25 territory [~~in a line of personal automobile or residential property~~
26 ~~insurance~~], the insurer must file a proposed restriction plan with
27 the commissioner for the commissioner's review and approval.

1 (b) The commissioner may not approve a restriction plan that
2 affects residential property insurance unless the commissioner
3 determines that the plan will not have an adverse impact on the
4 affordability and availability of that insurance in this state.

5 The commissioner may modify, restrict, or limit a restriction plan
6 under this section as necessary if the commissioner finds that a
7 line of insurance subject to the restriction plan is not offered in
8 this state in a quantity or manner to adequately cover the risks in
9 this state or to adequately protect the residents of this state and
10 policyholders in this state in light of the impact of the
11 catastrophic natural event. The commissioner may by order set the
12 date on which the insurer's restriction begins.

13 (c) A withdrawal plan must be filed and approved under
14 Sections 827.003 and 827.004 if an insurer's decision not to accept
15 new business in a line of personal automobile or residential
16 property insurance results in a reduction of the insurer's total
17 annual premium volume by 50 percent or more.

18 SECTION 7.03. Sections 827.010(a) and (d), Insurance Code,
19 are amended to read as follows:

20 (a) The commissioner may impose a moratorium of not longer
21 than two years on:

22 (1) the approval of withdrawal plans; or

23 (2) the approval [~~implementation~~] of plans to restrict
24 the writing of new business described by Section 827.008.

25 (d) To impose or renew a moratorium under this section, the
26 commissioner must determine, after notice and hearing, that [~~a~~
27 ~~catastrophic event has occurred and that as a result of that event]~~

1 a particular line of insurance is not reasonably expected to be
2 available and affordable to a substantial number of policyholders
3 or potential policyholders in this state or, in the case of lines of
4 personal automobile or residential property insurance, in a rating
5 territory.

6 SECTION 7.04. The change in law made by this article applies
7 only to the conduct of an insurer or its affiliate on or after
8 September 1, 2005. The conduct of an insurer or its affiliate
9 before September 1, 2005, is governed by the law as it existed at
10 the time the conduct occurred and that law is continued in effect
11 for this purpose.

12 ARTICLE 8. DISPUTE RESOLUTION CONCERNING
13 CONSTRUCTION DEFECTS

14 SECTION 8.01. Title 4, Property Code, is amended by adding
15 Chapter 30 to read as follows:

16 CHAPTER 30. TEXAS HOMEBUYER PROTECTION ACT

17 Sec. 30.001. SHORT TITLE. This chapter may be cited as the
18 Texas Homebuyer Protection Act.

19 Sec. 30.002. DEFINITIONS. In this chapter:

20 (1) "Administrator" means the administrator of the
21 Texas Real Estate Commission.

22 (2) "Commission" means the Texas Real Estate
23 Commission.

24 (3) "Contractor" means a person who, for compensation,
25 engages in the construction, remodeling, repair, modification, or
26 improvement of a building or a portion of a building used primarily
27 for residential purposes.

1 (4) "Defect" means a condition that prevents a home
2 from conforming to a contractor's warranty, including the implied
3 warranty that the home will conform to each applicable building
4 code.

5 (5) "Home" means a single-family house, duplex,
6 triplex, or quadruplex or a unit in a multiunit structure used for
7 residential purposes that is used or intended to be used as a
8 dwelling by one of the owners.

9 (6) "Homebuyer" means a person who:

10 (A) purchased a home from a contractor and is
11 entitled to enforce the terms of a contractor's warranty with
12 respect to the home;

13 (B) is a lessor or lessee, other than a
14 sublessee, who purchased or leased the home from a contractor; or

15 (C) is a transferee or assignee of a person
16 described by Paragraph (A) or (B) if the transferee or assignee is a
17 resident of this state and entitled to enforce the terms of a
18 contractor's warranty.

19 (7) "Serious safety hazard" means a life-threatening
20 malfunction, installation defect, or nonconformity that
21 substantially impedes a person's ability to live in or use a home or
22 that creates a substantial risk of fire, explosion, or exposure to a
23 toxic substance.

24 (8) "Warranty" means an express or implied warranty.

25 Sec. 30.003. APPLICABILITY OF CERTAIN OTHER LAW OR CONTRACT
26 PROVISIONS. (a) This chapter supersedes any other law or contract
27 provision that conflicts with this chapter, including Title 16.

1 (b) The remedies provided by this chapter supersede
2 remedies available under Chapter 27 or Title 16.

3 (c) Except as provided by this section, this chapter does
4 not limit the rights or remedies otherwise available to a homebuyer
5 under any other law.

6 (d) A contract provision that excludes or modifies the
7 remedies provided by this chapter is prohibited and is void as
8 against public policy unless the exclusion or modification is
9 included in a settlement agreement between a homebuyer and a
10 contractor.

11 Sec. 30.004. COMPLAINT. A homebuyer may seek a remedy
12 provided by this chapter by:

13 (1) providing to the contractor written notice
14 identifying each defect in the home that is covered by the
15 contractor's warranty; and

16 (2) filing a complaint with the commission that
17 includes a copy of the notice provided under Subdivision (1) on or
18 before the 30th day after the date the notice is provided.

19 Sec. 30.005. HEARING. (a) The administrator may set a
20 hearing on any allegation in a complaint that is not privately
21 resolved between the homebuyer and the contractor.

22 (b) The contested case provisions of Chapter 2001,
23 Government Code, apply to a hearing conducted under this chapter.

24 Sec. 30.006. TIME FOR FILING COMPLAINT. (a) Except as
25 provided by Subsection (b), a homebuyer must file a complaint under
26 this chapter before the earlier of:

27 (1) the date the express warranty period expires; or

1 (2) the 10th anniversary of the closing date.

2 (b) A homebuyer may file a complaint to which Section 30.010
3 applies on or before the 10th anniversary of the closing date.

4 Sec. 30.007. AFFIRMATIVE DEFENSE. In a hearing before the
5 administrator under this chapter, a contractor may assert as an
6 affirmative defense to an allegation of a defect made in a complaint
7 filed under this chapter that the defect is the result of abuse,
8 neglect, or modifications or alterations of the home made by a
9 person other than the contractor.

10 Sec. 30.008. REPAIR REQUIRED. (a) Except as provided by
11 Section 30.010, if a defect exists, the contractor shall make the
12 repairs necessary to conform the home to the contractor's
13 warranties if:

14 (1) the homebuyer or the homebuyer's designated agent
15 reported the defect to the contractor or the contractor's agent
16 before the expiration of the applicable time limit under Section
17 30.006; or

18 (2) a breach of an implied warranty on the home is
19 established under Subsection (c).

20 (b) The contractor must make the repairs required under
21 Subsection (a) not later than the 120th day after the date the
22 notice of the defect required by Section 30.004 is received by the
23 commission.

24 (c) There is a presumption that a breach of an implied
25 warranty on a home exists if the home does not comply with:

26 (1) a building code applicable to the home;

27 (2) the latest edition, published before the

1 construction of the home, of:

2 (A) the International Building Code for One- and
3 Two-Family Dwellings;

4 (B) the National Electric Code; or

5 (C) the manufacturer's specific installation
6 instructions for the part or component used in construction of the
7 home; or

8 (3) structural engineering standards or practices
9 intended to prevent structural damage or a decrease in the market
10 value of the home resulting from the failure of the foundation or
11 other load-bearing portions of the home, including standards or
12 practices used to ensure that a foundation is structurally
13 sufficient without artificial moisture controls or other
14 extraordinary maintenance by the homeowner.

15 Sec. 30.009. RETURN OR REPLACEMENT REQUIRED. (a) Except as
16 provided by Section 30.010, if the contractor is unable to cure a
17 defect within the 120-day period prescribed by Section 30.008(b)
18 and the defect creates a serious safety hazard, substantially
19 impairs the use of the home, or decreases the home's market value by
20 more than five percent, the contractor shall at the homebuyer's
21 option:

22 (1) replace the home with a comparable home in the same
23 neighborhood; or

24 (2) accept return of the home from the homebuyer and
25 refund to the homebuyer the full purchase price and any closing
26 costs and reasonable moving costs.

27 (b) The administrator may not order a remedy under this

1 section unless the contractor has been provided at least 120
2 calendar days to cure the defect that is subject to the remedy
3 provided by this section. The 120-day period required by this
4 subsection is extended by the amount of time during which repair
5 services are not available to a homebuyer because of a war,
6 invasion, strike, or fire, flood, or other natural disaster.

7 Sec. 30.011. REIMBURSEMENT OF EXPENSES. (a) If a
8 contractor is ordered to replace a home or refund the purchase price
9 under Section 30.009 or the contractor shall reimburse the
10 homebuyer for:

11 (1) reasonable incidental costs resulting from the
12 loss of the use of the home because of the defect; and

13 (2) lost wages resulting from time required for
14 appointments with the contractor or the contractor's
15 representative that are necessary because of the defect.

16 (b) As necessary to promote the public interest, the
17 commission by rule:

18 (1) shall define the incidental costs that are
19 eligible for reimbursement under Subsection (a) and specify other
20 requirements necessary to determine an eligible cost; and

21 (2) may set a maximum amount that is eligible for
22 reimbursement, either by type of eligible cost or by a total for all
23 costs.

24 (c) Refunds shall be made to the homebuyer and primary
25 lienholder, as applicable.

26 Sec. 30.012. OTHER REMEDIES NOT PRECLUDED. This chapter
27 does not prevent a homebuyer from obtaining a remedy available to

1 the homebuyer under a new home warranty that provides remedies in
2 addition to those provided by this chapter.

3 Sec. 30.013. RIGHT TO FILE ACTION. (a) Except as provided
4 by this section, a homebuyer may not seek the remedies provided by
5 this chapter in a civil action unless the homebuyer files a
6 complaint against the contractor under this chapter and exhausts
7 the administrative proceedings provided by this chapter. A court
8 shall dismiss an action filed in violation of this section.

9 (b) If the hearing examiner does not issue a proposal for
10 decision and make a recommendation to the administrator for a final
11 order on or before the 150th day after the date a complaint is filed
12 under this chapter, the administrator shall provide written notice,
13 by certified mail, to the complainant and the contractor.

14 (c) The notice must inform the recipient of:

15 (1) the date the period for issuing a final order under
16 this chapter expires; and

17 (2) the complainant's right to file an action under
18 this section.

19 (d) After receiving a notice of the right to file an action
20 under Subsection (b), a complainant may file an action against a
21 contractor named in the complaint. The administrator's failure to
22 issue a notice of the right to file an action does not affect a
23 complainant's right to bring an action under this section.

24 Sec. 30.014. JUDICIAL REVIEW. A final order of the
25 administrator under this chapter:

26 (1) is the final action of the commission under this
27 chapter; and

1 (2) is subject to review only by judicial review as
2 provided by Chapter 2001, Government Code, to the extent that
3 chapter is not inconsistent with this chapter.

4 Sec. 30.015. INITIATION OR REMOVAL OF ACTION. (a) Except
5 as otherwise provided by this chapter, an appeal initiated under
6 this chapter may be removed to the Third Court of Appeals District
7 if any party to the action files a notice of removal with the
8 district court before the trial in the district court begins.

9 (b) An appeal initiated in or removed to the Third Court of
10 Appeals District:

11 (1) must be initiated under Chapter 2001, Government
12 Code, as if initiated in a Travis County district court; and

13 (2) is governed from the time of filing by the Texas
14 Rules of Appellate Procedure.

15 (c) If evidence outside the commission's record is to be
16 admitted in an appeal under Chapter 2001, Government Code, or
17 otherwise, the action:

18 (1) must be initiated in a Travis County district
19 court; or

20 (2) if initiated in the Third Court of Appeals
21 District, is subject to remand to a Travis County district court for
22 proceedings in accordance with instructions from the court of
23 appeals.

24 (d) Citation must be served on the administrator and each
25 party of record before the commission. For an appeal initiated in
26 the Third Court of Appeals District, the court shall cause citation
27 to be issued.

1 Sec. 30.016. DILIGENCE REQUIRED. (a) An appellant must
2 pursue an appeal with reasonable diligence. If an appellant fails
3 to prosecute an appeal in the six-month period after the appeal is
4 filed, the court shall presume that the appeal has been abandoned
5 and dismiss the appeal if a motion for dismissal is submitted by the
6 attorney general or another party.

7 (b) An appeal may not be dismissed under this section if the
8 appellant, after receiving notice and an opportunity to be heard,
9 demonstrates good cause for a delay.

10 Sec. 30.017. DISCLOSURE REQUIRED. (a) A contractor that is
11 ordered to refund the purchase price of or replace a home under this
12 chapter shall provide to the first retail purchaser of the home
13 after the home was repurchased or replaced by the contractor a
14 disclosure statement stating that the home was repurchased or
15 replaced by the contractor under this chapter.

16 (b) The disclosure statement must include the toll-free
17 telephone number established by the commission under Section
18 30.019.

19 (c) Before a home repurchased or replaced under this chapter
20 may be sold again, the deed that transfers title to the home must be
21 marked with a clear statement that indicates that the home was
22 repurchased or replaced under this chapter.

23 Sec. 30.018. RESTORATION OF WARRANTY REQUIRED. A
24 contractor who sells a home after repurchasing or replacing the
25 home under this chapter must:

26 (1) restore the home in a manner that conforms with
27 applicable building codes; and

1 (2) issue an express warranty for the home.

2 Sec. 30.019. TOLL-FREE TELEPHONE NUMBER. The commission
3 shall establish a toll-free telephone number for providing
4 information to persons who request information about a defect that
5 was the basis for ordering a remedy under this chapter. The
6 commission shall maintain an effective method of providing
7 information to persons who make requests.

8 Sec. 30.020. ANNUAL REPORT. (a) The commission shall
9 publish and make available to the public an annual report relating
10 to homes ordered repurchased or replaced by a contractor under this
11 chapter.

12 (b) The report must:

13 (1) list the number of homes by subdivision name, if
14 any;

15 (2) identify the contractor; and

16 (3) include a brief description of each defect that
17 was the subject of a remedy provided by this chapter.

18 (c) The commission may charge a reasonable fee to recover
19 the cost of the report.

20 Sec. 30.021. ADMINISTRATIVE PENALTY. (a) The commission
21 may impose an administrative penalty on a person who violates this
22 chapter or a rule or order adopted under this chapter.

23 (b) The imposition of a penalty is governed by Subchapter O,
24 Chapter 1101, Occupations Code.

25 Sec. 30.022. RULES. The commission, in consultation with
26 the Texas Real Estate Inspector Committee, shall adopt rules
27 necessary for the enforcement and administration of this chapter.

1 SECTION 8.02. Section 27.001, Property Code, is amended by
2 amending Subdivisions (4) and (8) to read as follows:

3 (4) "Construction defect" [~~has the meaning assigned by~~
4 ~~Section 401.004 for an action to which Subtitle D, Title 16, applies~~
5 ~~and for any other action~~] means a matter concerning the design,
6 construction, or repair of a new residence, of an alteration of or
7 repair or addition to an existing residence, or of an appurtenance
8 to a residence, on which a person has a complaint against a
9 contractor. The term may include any physical damage to the
10 residence, any appurtenance, or the real property on which the
11 residence and appurtenance are affixed proximately caused by a
12 construction defect.

13 (8) "Structural failure" [~~has the meaning assigned by~~
14 ~~Section 401.002 for an action to which Subtitle D, Title 16, applies~~
15 ~~and for any other action~~] means actual physical damage to the
16 load-bearing portion of a residence caused by a failure of the
17 load-bearing portion.

18 SECTION 8.03. Section 27.003(a), Property Code, is amended
19 to read as follows:

20 (a) In an action to recover damages or other relief arising
21 from a construction defect:

22 (1) a contractor is not liable for any percentage of
23 damages caused by:

24 (A) negligence of a person other than the
25 contractor or an agent, employee, or subcontractor of the
26 contractor;

27 (B) failure of a person other than the contractor

1 or an agent, employee, or subcontractor of the contractor to:

2 (i) take reasonable action to mitigate the
3 damages; or

4 (ii) take reasonable action to maintain the
5 residence;

6 (C) normal wear, tear, or deterioration;

7 (D) normal shrinkage due to drying or settlement
8 of construction components within the tolerance of building
9 standards; or

10 (E) the contractor's reliance on written
11 information relating to the residence, appurtenance, or real
12 property on which the residence and appurtenance are affixed that
13 was obtained from official government records, if the written
14 information was false or inaccurate and the contractor did not know
15 and could not reasonably have known of the falsity or inaccuracy of
16 the information; and

17 (2) if an assignee of the claimant or a person
18 subrogated to the rights of a claimant fails to provide the
19 contractor with the written notice and opportunity to inspect and
20 offer to repair required by Section 27.004 [~~or fails to request~~
21 ~~state-sponsored inspection and dispute resolution under Chapter~~
22 ~~428, if applicable,~~] before performing repairs, the contractor is
23 not liable for the cost of any repairs or any percentage of damages
24 caused by repairs made to a construction defect at the request of an
25 assignee of the claimant or a person subrogated to the rights of a
26 claimant by a person other than the contractor or an agent,
27 employee, or subcontractor of the contractor.

1 SECTION 8.04. Section 27.004, Property Code, is amended by
2 amending Subsections (a), (b), (c), and (d) to read as follows:

3 (a) Before [~~In a claim not subject to Subtitle D, Title 16,~~
4 ~~before~~] the 60th day preceding the date a claimant seeking from a
5 contractor damages or other relief arising from a construction
6 defect initiates an action, the claimant shall give written notice
7 by certified mail, return receipt requested, to the contractor, at
8 the contractor's last known address, specifying in reasonable
9 detail the construction defects that are the subject of the
10 complaint. On the request of the contractor, the claimant shall
11 provide to the contractor any evidence that depicts the nature and
12 cause of the defect and the nature and extent of repairs necessary
13 to remedy the defect, including expert reports, photographs, and
14 videotapes, if that evidence would be discoverable under Rule 192,
15 Texas Rules of Civil Procedure. During the 35-day period after the
16 date the contractor receives the notice, and on the contractor's
17 written request, the contractor shall be given a reasonable
18 opportunity to inspect and have inspected the property that is the
19 subject of the complaint to determine the nature and cause of the
20 defect and the nature and extent of repairs necessary to remedy the
21 defect. The contractor may take reasonable steps to document the
22 defect. [~~In a claim subject to Subtitle D, Title 16, a contractor~~
23 ~~is entitled to make an offer of repair in accordance with Subsection~~
24 ~~(b). A claimant is not required to give written notice to a~~
25 ~~contractor under this subsection in a claim subject to Subtitle D,~~
26 ~~Title 16.]~~

27 (b) Not [~~later than the 15th day after the date of a final,~~

1 ~~unappealable determination of a dispute under Subtitle D, Title 16,~~
2 ~~if applicable, or not]~~ later than the 45th day after the date the
3 contractor receives the notice [~~under this section, if Subtitle D,~~
4 ~~Title 16, does not apply~~], the contractor may make a written offer
5 of settlement to the claimant. The offer must be sent to the
6 claimant at the claimant's last known address or to the claimant's
7 attorney by certified mail, return receipt requested. The offer
8 may include either an agreement by the contractor to repair or to
9 have repaired by an independent contractor partially or totally at
10 the contractor's expense or at a reduced rate to the claimant any
11 construction defect described in the notice and shall describe in
12 reasonable detail the kind of repairs which will be made. The
13 repairs shall be made not later than the 45th day after the date the
14 contractor receives written notice of acceptance of the settlement
15 offer, unless completion is delayed by the claimant or by other
16 events beyond the control of the contractor. If a contractor makes
17 a written offer of settlement that the claimant considers to be
18 unreasonable:

19 (1) on or before the 25th day after the date the
20 claimant receives the offer, the claimant shall advise the
21 contractor in writing and in reasonable detail of the reasons why
22 the claimant considers the offer unreasonable; and

23 (2) not later than the 10th day after the date the
24 contractor receives notice under Subdivision (1), the contractor
25 may make a supplemental written offer of settlement to the claimant
26 by sending the offer to the claimant or the claimant's attorney.

27 (c) If [~~compliance with Subtitle D, Title 16, or~~] the giving

1 of the notice under Subsections (a) and (b) within the period
2 prescribed by those subsections is impracticable because of the
3 necessity of initiating an action at an earlier date to prevent
4 expiration of the statute of limitations or if the complaint is
5 asserted as a counterclaim, [~~compliance with Subtitle D, Title 16,~~
6 ~~or~~] the notice is not required. However, the action or counterclaim
7 shall specify in reasonable detail each construction defect that is
8 the subject of the complaint. The [~~If Subtitle D, Title 16, applies~~
9 ~~to the complaint, simultaneously with the filing of an action by a~~
10 ~~claimant, the claimant must submit a request under Section 428.001.~~
11 ~~If Subtitle D, Title 16, does not apply, the~~] inspection provided
12 for by Subsection (a) may be made not later than the 75th day after
13 the date of service of the suit, request for arbitration, or
14 counterclaim on the contractor, and the offer provided for by
15 Subsection (b) may be made [~~not later than the 15th day after the~~
16 ~~date the state-sponsored inspection and dispute resolution process~~
17 ~~is completed, if Subtitle D, Title 16, applies, or~~] not later than
18 the 60th day after the date of service [~~, if Subtitle D, Title 16,~~
19 ~~does not apply~~]. If, while an action subject to this chapter is
20 pending, the statute of limitations for the cause of action would
21 have expired and it is determined that the provisions of Subsection
22 (a) were not properly followed, the action shall be abated to allow
23 compliance with Subsections (a) and (b).

24 (d) The court or arbitration tribunal shall dismiss an
25 action governed by this chapter if Subsection (c) does not apply and
26 the court or tribunal, after a hearing, finds that the contractor is
27 entitled to dismissal because the claimant failed to [~~comply with~~

1 ~~the requirements of Subtitle D, Title 16, if applicable, failed to]~~
2 provide the notice or failed to give the contractor a reasonable
3 opportunity to inspect the property as required by Subsection (a),
4 or failed to follow the procedures specified by Subsection (b). An
5 action is automatically dismissed without the order of the court or
6 tribunal beginning on the 11th day after the date a motion to
7 dismiss is filed if the motion:

8 (1) is verified and alleges that the person against
9 whom the action is pending did not receive the written notice
10 required by Subsection (a), the person against whom the action is
11 pending was not given a reasonable opportunity to inspect the
12 property as required by Subsection (a), or the claimant failed to
13 follow the procedures specified by Subsection (b) [~~or Subtitle D,~~
14 ~~Title 16~~]; and

15 (2) is not controverted by an affidavit filed by the
16 claimant before the 11th day after the date on which the motion to
17 dismiss is filed.

18 SECTION 8.05. Section 27.0042(b), Property Code, is amended
19 to read as follows:

20 (b) A contractor may not elect to purchase the residence
21 under Subsection (a) if [+

22 [~~(1)~~] the residence is more than five years old at the
23 time an action is initiated [~~, or~~

24 [~~(2) the contractor makes such an election later than~~
25 ~~the 15th day after the date of a final, unappealable determination~~
26 ~~of a dispute under Subtitle D, Title 16, if applicable]~~.

27 SECTION 8.06. Section 408.001, Property Code, is amended to

1 read as follows:

2 Sec. 408.001. RULES. The commission shall adopt rules as
3 necessary for the implementation of this title, including rules:

4 (1) [~~governing the state-sponsored inspection and~~
5 ~~dispute resolution process, including building and performance~~
6 ~~standards, administrative regulations, and the conduct of hearings~~
7 ~~under Subtitle D,~~

8 [~~2~~] establishing limited statutory warranty and
9 building and performance standards for residential construction;

10 (2) [~~3~~] approving third-party warranty companies;
11 and

12 (3) [~~4~~] approving third-party inspectors.

13 SECTION 8.07. Section 409.001(a), Property Code, is amended
14 to read as follows:

15 (a) The commission shall prepare information of public
16 interest describing the functions of the commission, the provisions
17 of the limited statutory warranty and building and performance
18 standards, [~~the state-sponsored inspection and dispute resolution~~
19 ~~process,~~] and the procedures by which complaints or requests are
20 filed with and resolved by the commission.

21 SECTION 8.08. Section 418.001, Property Code, is amended to
22 read as follows:

23 Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person is
24 subject to disciplinary action under this chapter for:

25 (1) fraud or deceit in obtaining a registration or
26 certification under this subtitle;

27 (2) misappropriation of trust funds in the practice of

1 residential construction;

2 (3) naming false consideration in a contract to sell a
3 new home or in a construction contract;

4 (4) discriminating on the basis of race, color,
5 religion, sex, national origin, or ancestry;

6 (5) publishing a false or misleading advertisement;

7 (6) failure to honor, within a reasonable time, a
8 check issued to the commission after the commission has sent by
9 certified mail a request for payment to the person's last known
10 business address, according to commission records;

11 (7) failure to pay an administrative penalty assessed
12 by the commission under Chapter 419; and

13 (8) ~~[nonpayment of a final nonappealable judgment~~
14 ~~arising from a construction defect or other transaction between the~~
15 ~~person and a homeowner];~~

16 ~~[(9)]~~ failure to register a home as required by
17 Section 426.003[~~+~~

18 ~~[(10) failure to remit the fee for registration of a~~
19 ~~home under Section 426.003; or~~

20 ~~[(11) failure to reimburse a homeowner the amount~~
21 ~~ordered by the commission as provided in Section 428.004(d)].~~

22 SECTION 8.09. The following laws are repealed:

23 (1) Sections 27.001(3) and (9), Property Code;

24 (2) Section 27.004(1), Property Code; and

25 (3) Subtitles D and E, Title 16, Property Code.

26 SECTION 8.10. (a) Chapter 30, Property Code, as added by
27 this Act, applies only to the sale of a new home for which the

1 closing date is on or after the effective date of this Act. A sale
2 of a new home for which the closing date was before the effective
3 date of this Act is governed by the law in effect at the time of the
4 sale, and that law is continued in effect for that purpose.

5 (b) Except as provided by this subsection, the change in law
6 made by this article applies to an action, including an
7 arbitration, commenced on or after the effective date of this Act.
8 An action commenced before the effective date of this Act or with
9 respect to which a request was filed under Section 428.001,
10 Property Code, repealed by this Act, before the effective date of
11 this Act is governed by the law in effect immediately before the
12 effective date of this Act, and that law is continued in effect for
13 that purpose.

14 (c) The change in law made by this article to Section
15 27.003(a)(2), Property Code, applies only to a repair made on or
16 after the effective date of this Act. A repair made before the
17 effective date of this Act is subject to the law as it existed
18 immediately before the effective date of this Act, and that law is
19 continued in effect for that purpose.

20 (d) The repeal by this article of Section 428.005, Property
21 Code, does not apply to the receipt by a builder of a notice
22 described by that section before the effective date of this Act.
23 The receipt by a builder of a notice described by that section
24 before the effective date of this Act is governed by the law in
25 effect immediately before that date, and that law is continued in
26 effect for that purpose.

27 (e) The repeal by this article of Chapter 430, Property

1 Code, applies only to residential construction under a contract
2 that is entered into on or after the effective date of this Act.
3 Residential construction under a contract entered into before the
4 effective date of this Act is subject to the warranties and building
5 and performance standards applicable to the construction
6 immediately before the effective date of this Act.

7 (f) The repeal by this article of Section 436.003, Property
8 Code, and Chapters 437 and 438, Property Code, by this Act, apply
9 only to an arbitration initiated on or after the effective date of
10 this Act. An arbitration initiated before the effective date of
11 this Act is governed by the law applicable to the arbitration
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 ARTICLE 9. EFFECTIVE DATE

15 SECTION 9.01. Except as provided by Section 1.02 of this
16 Act, this Act takes effect September 1, 2005.