

By: Eiland

H.B. No. 3265

A BILL TO BE ENTITLED

AN ACT

relating to dispute resolution and insurance policies or other coverage agreements.

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

SECTION 1. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 565 to read as follows:

CHAPTER 565. PROHIBITED PRACTICES RELATED TO DISPUTE RESOLUTION

Sec. 565.001. APPLICABILITY OF CHAPTER. This chapter applies to an insurance policy or other coverage agreement acquired by the covered person for personal, family, or household purposes issued by a company regulated by the commissioner, including:

(1) a domestic or foreign, stock or mutual, life, health, or accident insurance company;

(2) a domestic or foreign, stock or mutual, fire or casualty insurance company;

(3) a Mexican casualty company;

(4) a domestic or foreign Lloyd's plan;

(5) a domestic or foreign reciprocal or interinsurance exchange;

(6) a domestic or foreign fraternal benefit society;

(7) a domestic or foreign title insurance company;

(8) an attorney's title insurance company;

(9) a stipulated premium company;

(10) a nonprofit legal service corporation;

- 1           (11) a health maintenance organization;
- 2           (12) a statewide mutual assessment company;
- 3           (13) a local mutual aid association;
- 4           (14) a local mutual burial association;
- 5           (15) an association exempt under Section 887.102;
- 6           (16) a nonprofit hospital, medical, or dental service  
7 corporation, including a company subject to Chapter 842;
- 8           (17) a county mutual insurance company; and
- 9           (18) a farm mutual insurance company.

10           Sec. 565.002. PROVISION REQUIRING ARBITRATION PROHIBITED.

11           (a) An insurance policy or other coverage agreement may not require  
12 the covered person to submit to arbitration a dispute related to the  
13 coverage that arises after the agreement is entered into.

14           (b) If a written agreement that involves the provision of  
15 insurance and other services, goods, property, or credit includes a  
16 provision that requires a dispute under the agreement to be  
17 submitted to arbitration, the agreement must include a clear and  
18 conspicuous disclosure that the mandatory arbitration provision  
19 does not apply to any insurance-related dispute under the  
20 agreement.

21           (c) A provision in an insurance policy or other coverage  
22 agreement that violates this section is void and unenforceable.

23           Sec. 565.003. LIABILITY. (a) A person described by Section  
24 565.001 that issues a coverage agreement that violates this section  
25 is liable to the covered person for:

26           (1) the covered person's actual damages sustained as a  
27 result of the violation;

1           (2) \$100, regardless of whether actual damages are  
2 sustained; and

3           (3) the covered person's attorney's fees and costs to  
4 recover under this subsection.

5           (b) A contract provision that requires an action to enforce  
6 this section to be submitted to arbitration is void and  
7 unenforceable.

8           SECTION 2. Chapter 565, Insurance Code, as added by this  
9 Act, applies only to an insurance policy or other coverage  
10 agreement delivered, issued for delivery, or renewed on or after  
11 January 1, 2008. An insurance policy or coverage agreement  
12 delivered, issued for delivery, or renewed before January 1, 2008,  
13 is governed by the law as it existed immediately before the  
14 effective date of this Act, and that law is continued for that  
15 purpose.

16           SECTION 3. This Act takes effect September 1, 2007.