

By: Carona

S.B. No. 942

A BILL TO BE ENTITLED

AN ACT

relating to the resolution of certain disputes by collaborative law procedures.

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

SECTION 1. Title 7, Civil Practice and Remedies Code, is amended by adding Chapter 161 to read as follows:

CHAPTER 161. COLLABORATIVE LAW

Sec. 161.001. POLICY. It is the policy of this state to encourage the peaceable resolution of disputes and the early settlement of pending litigation through voluntary settlement procedures.

Sec. 161.002. COLLABORATIVE LAW PROCEDURES. (a) On a written agreement, parties and their attorneys may undertake to resolve a dispute using collaborative law procedures.

(b) Collaborative law is a voluntary procedure in which the parties and their attorneys agree in writing to use their best efforts and make a good faith attempt to resolve their dispute on an agreed basis without resorting to judicial intervention except to have the court approve the settlement agreement, make the legal pronouncements, and sign the orders required by law to effectuate the agreement of the parties as the court determines appropriate. The parties' attorneys may not serve as litigation counsel except to request the court to approve the settlement agreement.

(c) A collaborative law agreement must include:

1 (1) provisions for full and candid exchange of
2 information between the parties and their attorneys as necessary to
3 make a proper evaluation of the case;

4 (2) provisions for suspending court intervention in
5 the dispute while the parties are using collaborative law
6 procedures;

7 (3) provisions for hiring experts, as jointly agreed,
8 to be used in the procedure; and

9 (4) provisions for withdrawal of counsel involved in
10 the collaborative law procedure if the collaborative law procedure
11 does not result in settlement of the dispute.

12 (d) The collaborative law agreement may contain other
13 provisions as agreed to by the parties consistent with a good faith
14 effort to collaboratively settle the matter.

15 (e) Notwithstanding Rule 11, Texas Rules of Civil
16 Procedure, or another rule or law, a party is entitled to judgment
17 on a collaborative law settlement agreement if the agreement:

18 (1) provides in a prominently displayed statement that
19 is boldfaced, capitalized, or underlined, that the agreement is not
20 subject to revocation; and

21 (2) is signed by each party to the agreement and the
22 attorney of each party.

23 (f) Subject to Subsection (h), a court that is notified 30
24 days before trial that the parties are using collaborative law
25 procedures to attempt to settle a dispute may not, until a party
26 notifies the court that the collaborative law procedures did not
27 result in a settlement:

- (1) set a hearing or trial in the case;
- (2) impose discovery deadlines;
- (3) require compliance with scheduling orders; or
- (4) dismiss the case.

(g) The parties shall notify the court if the collaborative law procedures result in a settlement. If a settlement has not been reached, the parties shall file:

(1) a status report with the court not later than the 180th day after the date of the written agreement to use the procedures; and

(2) a status report on or before the first anniversary of the date of the written agreement to use the procedures, accompanied by a motion for continuance that the court shall grant if the status report indicates the desire of the parties to continue to use collaborative law procedures.

(h) If the collaborative law procedures do not result in a settlement on or before the second anniversary of the date suit was filed, the court may set the suit for trial on the regular docket.

Sec. 161.003. CONFIDENTIALITY OF COLLABORATIVE LAW PROCEDURES. The provisions for confidentiality of alternative dispute resolution procedures as provided in Chapter 154 apply equally to collaborative law procedures under Chapter 161.

SECTION 2. This Act applies only to an action commenced:

- (1) on or after the effective date of this Act; or
- (2) before the effective date of this Act if the trial in the action has not begun before the effective date of this Act.

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