

BILL ANALYSIS

C.S.H.B. 3150
By: Torres
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 3150 provides that a person bringing action against the Texas Windstorm Insurance Association may recover the amount of actual damages, plus court costs and reasonable and necessary attorney's fees, but may not recover punitive or exemplary damages.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3150 amends the Insurance Code to make the authorization for a trier of fact, on a finding that a defendant knowingly committed an unfair method of competition or unfair or deceptive act or practice, to award an amount not to exceed three times the amount of actual damages inapplicable to a private action for damages brought against the Texas Windstorm Insurance Association (TWIA) by a person insured under the Texas Windstorm Insurance Association Act. The bill authorizes a person who brings an action against TWIA regarding an association act, ruling, or decision relating to a claim to recover the amount of actual damages, plus court costs and reasonable and necessary attorney's fees and prohibits such a person from recovering punitive or exemplary damages, including damages under a private action for damages relating to a deceptive, unfair, or prohibited insurance practice, damages relating to a violation of provisions of law relating to prompt payment of claims, and certain economic or mental anguish damages under the Deceptive Trade Practices-Consumer Protection Act.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3150 differs from the original by specifying that the punitive and exemplary damages that a person who brings an action against the Texas Windstorm Insurance Association regarding an association act, ruling, or decision relating to a claim is prohibited from recovering include damages under a private action for damages relating to a deceptive, unfair, or prohibited insurance practice, damages relating to a violation of provisions of law relating to prompt payment of claims, and certain economic or mental anguish damages under the Deceptive Trade Practices-Consumer Protection Act, whereas the original specifies that such prohibited punitive and exemplary damages include damages under a private action for damages relating to a deceptive, unfair, or prohibited insurance practice.