

By: Smithee

H.B. No. 3060

A BILL TO BE ENTITLED

AN ACT

relating to arbitration of certain claims under residential property insurance policies.

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

SECTION 1. Subtitle D, Title 10, Insurance Code, is amended by adding Chapter 2009 to read as follows:

CHAPTER 2009. ARBITRATION OF DISPUTES RELATING TO CERTAIN STORM CLAIMS

Sec. 2009.001. DEFINITIONS. In this chapter:

(1) "Arbitration endorsement" means an endorsement to a residential property insurance policy that requires an insured and an insurer to submit certain disputes to binding arbitration in accordance with this chapter.

(2) "Insurer" has the meaning assigned by Section 2301.051 but does not include the Texas Windstorm Association.

(3) "Residential property insurance" has the meaning assigned by Section 2301.051.

(4) "Seacoast territory" has the meaning assigned by Section 2210.003.

(5) "Storm claim" means a claim for:

(A) direct loss to property incurred as a result of windstorm or hail occurring during a storm system that has been declared and named by the National Weather Service; and

(B) indirect losses resulting from the direct

1 loss.

2 Sec. 2009.002. ENDORSEMENT AUTHORIZED. (a) Subject to the
3 requirements of this section, an insurer authorized to write
4 residential property insurance in this state may issue a
5 residential property insurance policy providing coverage for a
6 structure in the seacoast territory that includes an endorsement
7 requiring binding arbitration of a dispute between the insured and
8 the insurer relating to the payment of, the amount of, or the denial
9 of a particular storm claim.

10 (b) An insurer may issue a policy to an applicant for
11 residential property insurance that includes an arbitration
12 endorsement only if:

13 (1) the insurer also offers and makes available to the
14 applicant, without the arbitration endorsement, the standard
15 policy form promulgated under Articles 5.06 and 5.35 or a
16 substantially equivalent form, as determined by the commissioner;
17 and

18 (2) before the issuance of the residential insurance
19 policy that contains the arbitration endorsement, the insurer
20 provides to the applicant a notice, substantially in the form
21 required by the commissioner, that explains the legal effect of the
22 endorsement.

23 Sec. 2009.003. ARBITRATION ENDORSEMENT. (a) The form of an
24 arbitration endorsement must be filed and approved in accordance
25 with Subchapter A, Chapter 2301.

26 (b) An arbitration endorsement must provide that, at the
27 election of the insurer or the insured, a dispute relating to the

1 payment of, the amount of, or the denial of a particular storm claim
2 under the residential property insurance policy must be resolved
3 through binding arbitration in accordance with this section.

4 (c) The commissioner by rule may establish procedures for
5 the conduct of the arbitration in accordance with an arbitration
6 endorsement. The rules may address matters such as:

7 (1) procedures for requesting and conducting the
8 arbitration;

9 (2) procedures for selecting one or more arbitrators
10 to conduct the arbitration;

11 (3) the qualifications of arbitrators authorized to
12 conduct the arbitrations; and

13 (4) payment of the costs of arbitration, including
14 payment of an arbitrator's fees, the amount of those fees, and which
15 party or parties are liable for the payment of those fees.

16 Sec. 2009.004. LAW GOVERNING ARBITRATION. Except to the
17 extent of any conflict with this chapter and the rules adopted under
18 this chapter, Chapter 171, Civil Practice and Remedies Code,
19 applies to an arbitration conducted in accordance with an
20 arbitration endorsement.

21 Sec. 2009.005. RIGHT TO SUE AND RECOVER EXEMPLARY DAMAGES
22 WAIVED. (a) Except as provided by Chapter 171, Civil Practice and
23 Remedies Code, an insured that elects to purchase a residential
24 property insurance policy that includes an arbitration endorsement
25 waives the right to bring against the insurer a suit relating to the
26 payment of, the amount of, or the denial of a storm claim and, with
27 respect to the claim, is not entitled to exemplary damages under any

1 law, including Chapter 541 and the Deceptive Trade
2 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
3 Business & Commerce Code).

4 (b) Except as provided by Chapter 171, Civil Practice and
5 Remedies Code, an insurer that elects to issue a residential
6 property insurance policy that includes an arbitration endorsement
7 waives the right to bring against the insured a suit relating to a
8 storm claim and, with respect to the claim, is not entitled to
9 exemplary damages under any law.

10 Sec. 2009.006. PREMIUM DISCOUNT REQUIRED. An insured that
11 elects to purchase a residential property insurance policy that
12 includes an arbitration endorsement is entitled to a premium
13 discount in an amount approved by the commissioner. The rate
14 charged, after application of the discount required by this
15 section, must satisfy the requirements of Section 2251.051.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2011.