

By: Smithee

H.B. No. 3063

A BILL TO BE ENTITLED

AN ACT

relating to third-party property damage claims under private passenger automobile insurance policies.

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

SECTION 1. Chapter 542, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CERTAIN THIRD-PARTY PROPERTY DAMAGE CLAIMS

Sec. 542.351. DEFINITION. In this subchapter, "third-party property damage claim" means a claim for property damage made against a person who is insured for liability for the claim under a private passenger automobile insurance policy.

Sec. 542.352. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any insurer that delivers, issues for delivery, or renews in this state a private passenger automobile insurance policy, including a reciprocal or interinsurance exchange, mutual insurance company, association, Lloyd's plan, or other insurer.

Sec. 542.353. PROMPT SETTLEMENT OF THIRD-PARTY PROPERTY DAMAGE CLAIMS. (a) The commissioner by rule shall adopt minimum standards to ensure prompt and equitable settlement of a third-party property damage claim in circumstances in which:

(1) the insured's liability for the property damage is reasonably clear; and

(2) the amount of the claim is within the policy limits.

1 (b) The minimum standards must include:

2 (1) reasonable deadlines for an insurer to acknowledge
3 and pay a third-party property damage claim;

4 (2) required notices and other information that the
5 insurer must provide to a third-party property damage claimant or,
6 if applicable, the insured; and

7 (3) standards governing the items, statements, and
8 forms that an insurer may require a third-party property damage
9 claimant or insured to submit in relation to the claim.

10 Sec. 542.354. COMPLIANCE REQUIRED. An insurer shall comply
11 with the minimum standards adopted by the commissioner under
12 Section 542.353.

13 Sec. 542.355. ARBITRATION OF CLAIMS. (a) A third-party
14 property damage claimant may require that an insurer submit a
15 dispute concerning the payment of, the amount of, or the denial of a
16 third-party property damage claim to binding arbitration in
17 accordance with the procedures established under this section.

18 (b) A third-party property damage claimant who elects
19 binding arbitration under this section:

20 (1) waives the right to bring against the insured or
21 insurer an action, other than an action to enforce the arbitration
22 award, with respect to the claim; and

23 (2) agrees to accept payment for the claim within the
24 applicable policy limits.

25 (c) The commissioner by rule shall adopt a program for
26 arbitration of third-party property damage claims. The rules must
27 establish:

1 (1) procedures for requesting and conducting an
2 arbitration under this section;

3 (2) procedures for selecting one or more arbitrators
4 to conduct the arbitration;

5 (3) the qualifications of arbitrators authorized to
6 conduct arbitrations under this section; and

7 (4) a procedure for payment of the costs of
8 arbitration, including payment of arbitrators' fees, the amount of
9 the fees, and which party or parties are liable for the payment of
10 the fees.

11 (d) The department shall maintain and publish a list of
12 arbitrators qualified to conduct arbitrations under this section.

13 (e) Except to the extent of any conflict with this section
14 and the rules adopted under this section, Chapter 171, Civil
15 Practice and Remedies Code, applies to an arbitration conducted
16 under this section.

17 SECTION 2. Subchapter A, Chapter 1952, Insurance Code, is
18 amended by adding Section 1952.0565 to read as follows:

19 Sec. 1952.0565. REQUIRED PROVISION: ARBITRATION OF
20 THIRD-PARTY PROPERTY DAMAGE CLAIMS. An insurer may not deliver or
21 issue for delivery in this state a private passenger automobile
22 insurance policy that provides liability coverage for damages
23 arising out of the ownership, maintenance, or use of a motor vehicle
24 unless the policy, or an endorsement to the policy, includes a
25 provision that requires the insurer to participate in binding
26 arbitration in accordance with Subchapter H, Chapter 542.

27 SECTION 3. Subchapter H, Chapter 542, Insurance Code, as

1 added by this Act, and Section 1952.0565, Insurance Code, as added
2 by this Act, apply only to an insurance policy that is delivered,
3 issued for delivery, or renewed on or after January 1, 2012. A
4 policy delivered, issued for delivery, or renewed before January 1,
5 2012, is governed by the law as it existed immediately before the
6 effective date of this Act, and that law is continued in effect for
7 that purpose.

8 SECTION 4. This Act takes effect September 1, 2011.