

By: Burkett

H.B. No. 3794

A BILL TO BE ENTITLED

AN ACT

relating to disputes under insurance policies.

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

SECTION 1. Insurance Code is amended to read as follows:

Sec. 541.163. APPRAISAL-DISPUTE RESOLUTION. (a) A person or entity may not bring a suit or other non-compliant action for damages under this chapter when the amount of loss or damage to property is in dispute, before doing the following:

(1) notifying the insurer, in writing, that the amount of damage or loss of property is disputed. The notice must be sent:

(A) by U.S. Postal Service, certified, first class, return receipt requested; or

(B) similar service by a private carrier; and

(2) fully complying with the terms and conditions of the applicable insurance policy, including, but not limited to, full compliance with the policy's appraisal provision or arbitration language if contained in the applicable policy.

(b) Within the lesser of 45 days of receipt of the notice required by Subsection (a) or the time provided for initiation of the proceedings applicable in the policy, the insurance company must initiate proceedings as required by the applicable policy.

(c) Failure by the insurer to initiate proceedings within the time outlined in Subsection (b) relieves the insured of any penalty described in Section 541.164(a)(1) and Section

1 541.164(a)(2).

2 SECTION 2. Insurance Code is amended to read as follows:

3 541.164. ENFORCEMENT AND REMEDIES. (a) Upon hearing,
4 notice and a showing that the initiating party filed a suit or
5 brought any action not in compliance with Article 541.163, the
6 Court in which the action is pending shall:

7 (1) order that the insurance company initiate a
8 proceeding as described in Section 541.163(a)(2); and

9 (2) order that all reasonable and necessary attorney's
10 fees and costs of court shall be taxed, jointly and severally,
11 against the party initiating the non-compliant suit, or that
12 party's attorney(s) or counsel. The insurance company may not
13 execute, collect, or otherwise enforce this order prior to
14 initiating the proceedings described in Section 541.163(a)(2).

15 (b) Failure by the insurance company to comply with a court
16 order issued under Subsection (a)(1), will absolve the insured of
17 liability under Subsection (a)(1) and Subsection (a)(2).

18 (c) Failure by the insurance company to comply with the
19 court order under Subsection (a)(1), will automatically void any
20 court order issued under Subsection (a)(1) and Subsection (a)(2).

21 (d) The insurance company cannot recover any moneys awarded
22 under Subsection (a)(2) from any arbitration award or other award
23 to the insured payable under the applicable policy.

24 SECTION 3. Insurance Code is amended to read as follows:

25 541.165. Provision of Consumer Information. (a) At the
26 time of the creation of the policy, the insurance company shall
27 provide to the insured, information relating to the necessary

1 process to file a suit in compliance with the applicable policy.

2 SECTION 4. Insurance Code is amended to read as follows:

3 This Act takes effect September 1, 2011.

4 This Act applies only to policies written, created, or
5 extended on or after the effective date of this Act.