

By: Bonnen of Galveston

H.B. No. 3787

A BILL TO BE ENTITLED

AN ACT

relating to a claim filing period and contractual limitations period in certain property insurance policies.

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

SECTION 1. Subchapter A, Chapter 2301, Insurance Code, is amended by adding Section 2301.011 to read as follows:

Sec. 2301.011. CONTRACTUAL LIMITATIONS PERIOD AND CLAIM FILING PERIOD IN CERTAIN RESIDENTIAL OR COMMERCIAL PROPERTY INSURANCE FORMS. (a) Notwithstanding Section 16.070, Civil Practice and Remedies Code, a policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer or adopted by the department under this subchapter may provide for a contractual limitations period for filing suit on a first-party claim under the policy. The contractual limitations period may not end before the earlier of:

(1) two years from the date the insurer accepts or rejects the claim if the insurer has notified the insured by certified mail, return receipt requested, that the insurer has accepted or rejected the claim and has notified the insured in writing that the insured must file suit on the claim within two years of the date the insurer accepted or rejected the claim; or

(2) three years from the date that the insured discovered or, by the exercise of reasonable diligence, should have discovered that the insurer accepted or rejected the claim.

1 (b) A policy or endorsement described by Subsection (a) may
2 also contain a provision requiring that a claim be filed with the
3 insurer not later than two years after the date that the insured
4 discovered or, by the exercise of reasonable diligence, should have
5 discovered the loss that is the subject of the claim.

6 (c) A contractual provision contrary to Subsection (a) is
7 void. If a contractual provision is voided under this subsection,
8 the voiding of the provision does not affect the validity of other
9 provisions of a contract that may be given effect without the voided
10 provision to the extent those provisions are severable.

11 (d) An insurer using a policy form or endorsement form in
12 this state that includes a provision described by Subsection (a) or
13 (b) shall, at the time the policy or endorsement is issued or
14 renewed, disclose in writing to an applicant or insured the
15 contractual limitations or claims filing period, as applicable, in
16 the policy or endorsement.

17 SECTION 2. Section 2301.011, Insurance Code, as added by
18 this Act, applies only to an insurance policy that is delivered,
19 issued for delivery, or renewed on or after January 1, 2016. A
20 policy delivered, issued for delivery, or renewed before January 1,
21 2016, is governed by the law as it existed immediately before the
22 effective date of this Act, and that law is continued in effect for
23 that purpose.

24 SECTION 3. This Act takes effect September 1, 2015.