



Extra- Contractual Section Update

Proposed Texas Legislation Takes Aim At Hailstorm Bad Faith Lawsuits

In December 2016, a Federal District Court judge in Texas chastised a policyholder firm for bringing baseless claims against insurers over hailstorm damage. In his state of the state address, Texas Gov. Greg Abbott called lawsuits against insurers following hailstorms “the newest form of lawsuit abuse,” and asked for legislation “that limits abusive hailstorm litigation.” His request was answered on February 13, 2017. Lt. Gov. Dan Patrick and Senator Kelly Hancock announced a new tort reform bill in Texas focused on curbing lawsuit abuses in hailstorm-related litigation. Senate Bill 10 and its House companion, HB 1774, would preserve a policyholder’s right to sue but require 60 days’ notice before a suit could be filed, allowing the insurer time to respond. The proposed law would also prohibit suits against the individual insurance representative and allow the policyholder’s lawyer to either sue for deceptive trade practices or unfair settlement, but not both. The bill provides for a reduction in Plaintiffs’ attorney fees when a judgment requires an insurer to pay less than demanded in the lawsuit. Finally, it would bar the payments of such fees if insurance companies can prove barratry – the use of intermediaries such as contractors, to recruit clients.

Current text of the bill can be found at:

<http://www.legis.state.tx.us/tlodocs/85R/billtext/pdf/SB00010I.pdf - navpanes=0>