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July 6, 2016

DISTRICT 20

Commissioner David Mattax
Texas Department of Insurance
333 Guadalupe Street
Austin, Texas 78701

Dear Commissioner Mattax,

I am concerned with the recent arbitration endorsement filed with the Texas Department of Insurance by Texas Farm Bureau Insurance that would allow for a 25% reduction on a homeowner's annual insurance premium in exchange for mandatory binding arbitration to resolve any future disputes.

The proposed endorsement affects only South Texas counties, most of them along the border region. According to Texas Farm Bureau, 14 counties will be offered up to a 25% discount in exchange for mandatory binding arbitration. This includes my entire Senate district, consisting of Brooks, Hidalgo, Jim Wells and Nueces Counties.

While the arbitration clause is optional, the reality is that many of our Texas homeowners are struggling to pay monthly bills, feed their children, and can barely afford insurance premiums. So when balanced against a large discount incentive, agreeing to arbitration will often be the easy choice. Unfortunately, the general public often doesn't understand what "arbitration" means, but they do understand what "discount" means.

Safeguarding my constituents is a top priority and I fear that many South Texas homeowners will readily sign up for a large discount on their homeowner's premium without understanding the serious consequences. Consequences such as (1) the arbitrator's decision is final and not appealable; (2) you give up your right to sue your insurance company forever; and (3) you give up your right to a trial by jury. In fact, many states nationwide have banned all insurance arbitration clauses because of these concerns.

The Texas Department of Insurance has never approved a homeowners policy or endorsement with pre-dispute mandatory binding arbitration. Not only will approval of such an endorsement set a dangerous precedent that will allow other insurance companies to offer the same kind of policies, it would exceed the statutory authority granted to the agency.

Texas Insurance Code Sec. 2301.007(a)(2), *Disapproval of Forms; Withdrawal of Approval*, provides that the commissioner may disapprove a form filed under Section 2301.006 or withdraw approval of a form if the form contains a provision that is unjust or deceptive, encourages misrepresentation, or violates public policy.

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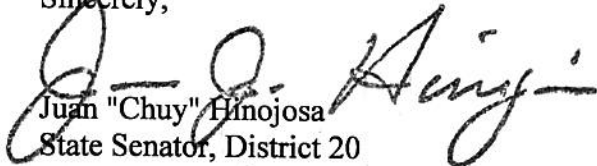
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Since the proposed endorsement violates public policy, you may disapprove it. While it does not mandate disapproval, it is the Texas Legislature who sets public policy and approving such an endorsement would exceed your authority as Commissioner. Allowing insurance arbitration is a significant policy change to current insurance practices. Should the state wish to enact such arbitration clauses, it should be a policy decision made by our lawmakers.

Thank you for your time and consideration in this critical matter specifically affecting my senate district. Should you have any questions, please do not hesitate to contact my office.

Sincerely,


Juan "Chuy" Hinojosa
State Senator, District 20