

By: Estes

S.B. No. 1216

A BILL TO BE ENTITLED

AN ACT

relating to determination of the validity and enforceability of a contract containing an arbitration agreement.

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

SECTION 1. Subchapter B, Chapter 171, Civil Practice and Remedies Code, is amended by adding Section 171.027 to read as follows:

Sec. 171.027. DETERMINATION OF VALIDITY AND ENFORCEABILITY OF CONTRACT CONTAINING AGREEMENT TO ARBITRATE. (a) If a party opposing an application to compel arbitration or making an application to stay arbitration asserts that the contract containing the agreement to arbitrate is not valid or enforceable, notwithstanding any provision of the contract to the contrary, the court shall try the issue promptly and may order arbitration only if the court determines that the contract containing the agreement to arbitrate is valid and enforceable against the party seeking to avoid arbitration.

(b) A determination under this section that a contract is valid and enforceable does not affect the court's authority to stay arbitration or refuse to compel arbitration on any other ground provided by law.

SECTION 2. The change in law made by this Act applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act

1 is governed by the law in effect immediately before that date, and
2 that law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2011.