

AN ACT

relating to the reform of certain remedies and procedures in civil actions and family law matters.

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

ARTICLE 1. EARLY DISMISSAL OF ACTIONS

SECTION 1.01. Section 22.004, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The supreme court shall adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence. The rules shall provide that the motion to dismiss shall be granted or denied within 45 days of the filing of the motion to dismiss. The rules shall not apply to actions under the Family Code.

SECTION 1.02. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.021 to read as follows:

Sec. 30.021. AWARD OF ATTORNEY'S FEES IN RELATION TO CERTAIN MOTIONS TO DISMISS. In a civil proceeding, on a trial court's granting or denial, in whole or in part, of a motion to dismiss filed under the rules adopted by the supreme court under Section 22.004(g), Government Code, the court shall award costs and reasonable and necessary attorney's fees to the prevailing party.

This section does not apply to actions by or against the state, other governmental entities, or public officials acting in their official capacity or under color of law.

ARTICLE 2. EXPEDITED CIVIL ACTIONS

SECTION 2.01. Section 22.004, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions.

The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy, inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed \$100,000. The rules shall address the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system. The supreme court may not adopt rules under this subsection that conflict with a provision of:

- (1) Chapter 74, Civil Practice and Remedies Code;
- (2) the Family Code;
- (3) the Property Code; or
- (4) the Tax Code.

ARTICLE 3. APPEAL OF CONTROLLING QUESTION OF LAW

SECTION 3.01. Section 51.014, Civil Practice and Remedies Code, is amended by amending Subsections (d) and (e) and adding

Subsections (d-1) and (f) to read as follows:

(d) On a party's motion or on its own initiative, a trial court in a civil action [~~A district court, county court at law, or county court~~] may, by [~~issue a~~] written order, permit an appeal from an order that is [~~for interlocutory appeal in a civil action~~] not otherwise appealable [~~under this section~~] if:

(1) [~~the parties agree that~~] the order to be appealed involves a controlling question of law as to which there is a substantial ground for difference of opinion; and

(2) an immediate appeal from the order may materially advance the ultimate termination of the litigation[~~; and~~

[~~(3) the parties agree to the order~~].

(d-1) Subsection (d) does not apply to an action brought under the Family Code.

(e) An appeal under Subsection (d) does not stay proceedings in the trial court unless:

(1) the parties agree to a stay; or

(2) [~~and~~] the trial or appellate court[~~, the court of appeals, or a judge of the court of appeals~~] orders a stay of the proceedings pending appeal.

(f) An appellate court may accept an appeal permitted by Subsection (d) if the appealing party, not later than the 15th day after the date the trial court signs the order to be appealed, files in the court of appeals having appellate jurisdiction over the action an application for interlocutory appeal explaining why

an appeal is warranted under Subsection (d). If the court of appeals accepts the appeal, the appeal is governed by the procedures in the Texas Rules of Appellate Procedure for pursuing an accelerated appeal. The date the court of appeals enters the order accepting the appeal starts the time applicable to filing the notice of appeal.

SECTION 3.02. Section 22.225(d), Government Code, is amended to read as follows:

(d) A petition for review is allowed to the supreme court for an appeal from an interlocutory order described by Section 51.014(a)(3), (6), or (11), or (d), Civil Practice and Remedies Code.

#### ARTICLE 4. ALLOCATION OF LITIGATION COSTS

SECTION 4.01. Sections 42.001(5) and (6), Civil Practice and Remedies Code, are amended to read as follows:

(5) "Litigation costs" means money actually spent and obligations actually incurred that are directly related to the action [~~case~~] in which a settlement offer is made. The term includes:

(A) court costs;

(B) reasonable deposition costs;

(C) reasonable fees for not more than two testifying expert witnesses; and

(D) [~~(C)~~] reasonable attorney's fees.

(6) "Settlement offer" means an offer to settle or

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compromise a claim made in compliance with Section 42.003 [~~this chapter~~].

SECTION 4.02. Sections 42.002(b), (d), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(b) This chapter does not apply to:

- (1) a class action;
- (2) a shareholder's derivative action;
- (3) an action by or against a governmental unit;
- (4) an action brought under the Family Code;
- (5) an action to collect workers' compensation benefits under Subtitle A, Title 5, Labor Code; or
- (6) an action filed in a justice of the peace court or a small claims court.

(d) This chapter does not limit or affect the ability of any person to:

- (1) make an offer to settle or compromise a claim that does not comply with Section 42.003 [~~this chapter~~]; or
- (2) offer to settle or compromise a claim in an action to which this chapter does not apply.

(e) An offer to settle or compromise that does not comply with Section 42.003 [~~is not made under this chapter~~] or an offer to settle or compromise made in an action to which this chapter does not apply does not entitle any [~~the offering~~] party to recover litigation costs under this chapter.

SECTION 4.03. Section 42.003, Civil Practice and Remedies

Code, is amended to read as follows:

Sec. 42.003. MAKING SETTLEMENT OFFER. (a) A settlement offer must:

- (1) be in writing;
- (2) state that it is made under this chapter;
- (3) state the terms by which the claims may be settled;
- (4) state a deadline by which the settlement offer must

be accepted; and

(5) be served on all parties to whom the settlement offer is made.

(b) The parties are not required to file a settlement offer with the court.

SECTION 4.04. Section 42.004(d), Civil Practice and Remedies Code, is amended to read as follows:

(d) The litigation costs that may be awarded under this chapter to any party may not be greater than the total amount that the claimant recovers or would recover before adding an award of litigation costs under this chapter in favor of the claimant or subtracting as an offset an award of litigation costs under this chapter in favor of the defendant ~~[an amount computed by:~~

~~[(1) determining the sum of:~~

~~[(A) 50 percent of the economic damages to be awarded to the claimant in the judgment;~~

~~[(B) 100 percent of the noneconomic damages to be awarded to the claimant in the judgment; and~~

~~[(C) 100 percent of the exemplary or additional damages to be awarded to the claimant in the judgment; and~~  
~~[(2) subtracting from the amount determined under Subdivision (1) the amount of any statutory or contractual liens in connection with the occurrences or incidents giving rise to the claim].~~

ARTICLE 5. DESIGNATION OF RESPONSIBLE THIRD PARTIES

SECTION 5.01. Section 33.004, Civil Practice and Remedies Code, is amended by adding Subsection (d) to read as follows:

(d) A defendant may not designate a person as a responsible third party with respect to a claimant's cause of action after the applicable limitations period on the cause of action has expired with respect to the responsible third party if the defendant has failed to comply with its obligations, if any, to timely disclose that the person may be designated as a responsible third party under the Texas Rules of Civil Procedure.

SECTION 5.02. Section 33.004(e), Civil Practice and Remedies Code, is repealed.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. The changes in law made by this Act apply only to a civil action commenced on or after the effective date of the change in law as provided by this article. A civil action commenced before the effective date of the change in law as provided by this article is governed by the law in effect immediately before the effective date of the change in law, and that law is continued in

effect for that purpose.

SECTION 6.02. This Act takes effect September 1, 2011.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 274 was passed by the House on May 9, 2011, by the following vote: Yeas 96, Nays 49, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 274 on May 25, 2011, by the following vote: Yeas 130, Nays 13, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 274 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor