

By: Wu, Leach, Schofield, Davis

H.B. No. 4166

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to exemption of certain civil actions from being subject  
3 to a motion to dismiss on the basis of involving the exercise of  
4 certain constitutional rights.

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

6 SECTION 1. Section 27.010(a), Civil Practice and Remedies  
7 Code, is amended to read as follows:

8 (a) This chapter does not apply to:

9 (1) an enforcement action that is brought in the name  
10 of this state or a political subdivision of this state by the  
11 attorney general, a district attorney, a criminal district  
12 attorney, or a county attorney;

13 (2) a legal action brought against a person primarily  
14 engaged in the business of selling or leasing goods or services, if  
15 the statement or conduct arises out of the sale or lease of goods,  
16 services, or an insurance product, insurance services, or a  
17 commercial transaction in which the intended audience is an actual  
18 or potential buyer or customer;

19 (3) a legal action seeking recovery for bodily injury,  
20 wrongful death, or survival or to statements made regarding that  
21 legal action;

22 (4) a legal action brought under the Insurance Code or  
23 arising out of an insurance contract;

24 (5) a legal action arising from an officer-director,

1 employee-employer, or independent contractor relationship that:

2 (A) seeks recovery for misappropriation of trade  
3 secrets or corporate opportunities; or

4 (B) seeks to enforce a non-disparagement  
5 agreement or a covenant not to compete;

6 (6) a legal action filed under Title 1, 2, 4, or 5,  
7 Family Code, or an application for a protective order under Chapter  
8 7A, Code of Criminal Procedure;

9 (7) a legal action brought under Chapter 17, Business  
10 & Commerce Code, other than an action governed by Section 17.49(a)  
11 of that chapter;

12 (8) a legal action in which a moving party raises a  
13 defense pursuant to Section 160.010, Occupations Code, Section  
14 161.033, Health and Safety Code, or the Health Care Quality  
15 Improvement Act of 1986 (42 U.S.C. 11101 et seq.);

16 (9) an eviction suit brought under Chapter 24,  
17 Property Code;

18 (10) a disciplinary action or disciplinary proceeding  
19 brought under Chapter 81, Government Code, or the Texas Rules of  
20 Disciplinary Procedure;

21 (11) a legal action brought under Chapter 554,  
22 Government Code; [~~or~~]

23 (12) a legal action based on a common law fraud claim;  
24 or

25 (13) a legal action based on a common law legal  
26 malpractice claim.

27 SECTION 2. Section 27.010(a), Civil Practice and Remedies

1 Code, as amended by this Act, applies only to an action commenced on  
2 or after the effective date of this Act. An action commenced before  
3 the effective date of this Act is governed by the law applicable to  
4 the action immediately before the effective date of this Act, and  
5 that law is continued in effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2021.