

By: Spiller

H.B. No. 5214

A BILL TO BE ENTITLED

AN ACT

1
2 relating to actions brought by the attorney general on behalf of
3 certain persons under the Texas Free Enterprise and Antitrust Act
4 of 1983.

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

6 SECTION 1. Section 15.21, Business & Commerce Code, is
7 amended by adding Subsections (d) and (e) to read as follows:

8 (d) The attorney general may bring a civil action against a
9 person on behalf of an individual or governmental entity for injury
10 to that individual's or entity's business or property caused,
11 directly or indirectly, by the person's violation of Section
12 15.05(a), (b), or (c). An action under this subsection may be
13 brought in district court in Travis County, or in any county in this
14 state in which a named defendant resides, does business, or
15 maintains a principal office, or in which the individual or
16 governmental entity on whose behalf the action is brought resides
17 at the time of the cause of action or any part of the cause of action
18 accrues. If the attorney general prevails in an action under this
19 subsection, the attorney general shall recover actual damages
20 sustained by the individual or governmental entity, interest on
21 actual damages for the period beginning on the date of service of
22 the attorney general's pleading setting forth a claim under the
23 antitrust laws and ending on the date of judgment (the rate of such
24 interest to be in accordance with Texas law regarding postjudgment

1 interest rates and the amount of interest to be adjusted by the
2 court if it finds that the award of all or part of such interest is
3 unjust in the circumstances), and the cost of suit, including a
4 reasonable attorney's fee, and if applicable, expert witness fees;
5 provided, however, that if the trier of fact finds that the unlawful
6 conduct was willful or flagrant, the court shall increase the
7 recovery to threefold the damages sustained and the cost of suit,
8 including a reasonable attorney's fee and, if applicable, expert
9 witness fees; provided that interest on actual damages as
10 specified above may not be recovered when recovered damages are
11 increased threefold. In an action under this subsection in which a
12 claim is asserted against a defendant relating to injury to both
13 direct and indirect purchasers, the court shall take all steps
14 necessary to avoid duplicative recovery from that defendant.

15 (e) For purposes of this section, "governmental entity"
16 means:

17 (1) this state, including each department, board,
18 agency, instrumentality, authority, or commission of this state;

19 (2) a political subdivision of this state, including a
20 county, city, municipality, school district, local improvement
21 district, law enforcement authority, or special district,
22 including a water, sanitation, fire protection, metropolitan,
23 irrigation, drainage, or other special district;

24 (3) a municipal, quasi-municipal, or public
25 corporation organized under the Texas Constitution or other law;
26 and

27 (4) a department, board, agency, instrumentality,

1 authority, or commission of an entity described by Subdivision (2)
2 or (3).

3 SECTION 2. Sections 15.21(d) and (e), Business & Commerce
4 Code, as added by this Act, apply only to a cause of action that
5 accrues on or after the effective date of this Act.

6 SECTION 3. This Act takes effect September 1, 2023.