

1-1 By: Janek S.B. No. 496
1-2 (In the Senate - Filed February 14, 2003; February 19, 2003,
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1-4 March 27, 2003, reported adversely, with favorable Committee
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1-9 COMMITTEE SUBSTITUTE FOR S.B. No. 496 By: Armbrister

1-10 A BILL TO BE ENTITLED
1-11 AN ACT

1-12 relating to civil claims involving exposure to asbestos.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Title 4, Civil Practice and Remedies Code, is
1-15 amended by adding Chapter 90 to read as follows:

1-16 CHAPTER 90. CLAIMS INVOLVING EXPOSURE TO ASBESTOS

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 90.001. DEFINITIONS. In this chapter:

1-19 (1) "Active docket" means a trial court's regular
1-20 trial docket, established in accordance with Chapter 23, Government
1-21 Code, and other applicable law.

1-22 (2) "Asbestosis" means bilateral diffuse interstitial
1-23 fibrosis of the lungs caused by inhalation of asbestos fibers.

1-24 (3) "Certified B-reader" means a person who has
1-25 successfully completed the x-ray interpretation course sponsored
1-26 by the National Institute for Occupational Safety and Health
1-27 (NIOSH) and whose NIOSH certification is current.

1-28 (4) "Chest x-ray" means chest films that are taken in
1-29 accordance with all applicable state and federal regulatory
1-30 standards and in the following two views: posterior-anterior, and
1-31 lateral.

1-32 (5) "Claim" means a civil action seeking recovery of
1-33 damages for an alleged personal injury or death caused by exposure
1-34 to asbestos fibers.

1-35 (6) "Claimant" means a party seeking recovery of
1-36 damages for a claim, including a plaintiff, counterclaimant,
1-37 cross-claimant, or third-party plaintiff. In a suit in which a
1-38 party seeks recovery of damages for personal injury or death of
1-39 another person, "claimant" includes both that other person and the
1-40 party seeking recovery of damages.

1-41 (7) "Defendant" means a party from whom the claimant
1-42 seeks recovery of damages.

1-43 (8) "FEV1" means forced expiratory volume in the first
1-44 second, which is the maximal volume of air expelled in one second
1-45 during performance of simple spirometric tests.

1-46 (9) "FVC" means forced vital capacity, which is the
1-47 maximal volume of air expired with maximum effort from a position of
1-48 full inspiration.

1-49 (10) "Inactive docket" means the docket established
1-50 under Subchapter B for a claim.

1-51 (11) "Independent expert" is an expert appointed to
1-52 examine a contested motion to remove under Section 90.057.

1-53 (12) "ILO grade" means the radiological ratings of the
1-54 International Labor Office set forth in "Guidelines for the Use of
1-55 ILO International Classification of Radiographs of Pneumoconioses"
1-56 (1980), as amended.

1-57 (13) "ILO scale" means the system for the
1-58 classification of chest x-rays set forth in the International Labor
1-59 Office's "Guidelines for the Use of ILO International
1-60 Classification of Radiographs of Pneumoconioses" (1980), as
1-61 amended.

1-62 (14) "Mesothelioma" means a rare and fatal form of
1-63 cancer caused by exposure to asbestos in which the cancer invades

2-1 cells in the membranes lining:
 2-2 (A) the lungs and chest cavity, the pleural
 2-3 region; or
 2-4 (B) the abdominal cavity, the peritoneal region.
 2-5 (15) "Office of court administration" means the Office
 2-6 of Court Administration of the Texas Judicial System.
 2-7 (16) "Physician board-certified in internal medicine"
 2-8 means a physician who is certified by the American Board of Internal
 2-9 Medicine or the American Osteopathic Board of Internal Medicine.
 2-10 (17) "Physician board-certified in occupational
 2-11 medicine" means a physician who is certified in the subspecialty of
 2-12 occupational medicine by the American Board of Internal Medicine or
 2-13 the American Osteopathic Board of Internal Medicine.
 2-14 (18) "Physician board-certified in oncology" means a
 2-15 physician who is certified in the subspecialty of medical oncology
 2-16 by the American Board of Internal Medicine or the American
 2-17 Osteopathic Board of Internal Medicine.
 2-18 (19) "Physician board-certified in pathology" means a
 2-19 physician who holds primary certification in anatomic pathology or
 2-20 clinical pathology from the American Board of Pathology or the
 2-21 American Osteopathic Board of Internal Medicine and whose
 2-22 professional practice:
 2-23 (A) is principally in the field of pathology; and
 2-24 (B) involves regular evaluation of pathology
 2-25 materials obtained from surgical or postmortem specimens.
 2-26 (20) "Physician board-certified in pulmonary
 2-27 medicine" means a physician who is certified in the subspecialty of
 2-28 pulmonary medicine by the American Board of Internal Medicine or
 2-29 the American Osteopathic Board of Internal Medicine.
 2-30 (21) "Pulmonary function testing" means spirometry,
 2-31 lung volume testing, and diffusing capacity testing, performed
 2-32 using equipment, methods of calibration, and technique that meet:
 2-33 (A) the criteria incorporated in the *American*
 2-34 *Medical Association Guides to the Evaluation of Permanent*
 2-35 *Impairment* (5th Ed.) and reported as set forth in 20 C.F.R. Part
 2-36 404, Subpart P, Appendix 1, Part (A), Section 3.00(E) and (F); and
 2-37 (B) the interpretative standards set forth in the
 2-38 Official Statement of the American Thoracic Society entitled "Lung
 2-39 Function Testing: Selection of Reference Values and Interpretative
 2-40 Strategies," as published in 144 *American Review of Respiratory*
 2-41 *Disease* 1202-1218 (1991) and 152 *American Journal of Respiratory*
 2-42 *and Critical Care Medicine* 1107-1136; 2185-2198 (1995). Pulmonary
 2-43 function testing must be performed under the supervision of and
 2-44 interpreted by a physician who is licensed in this state and
 2-45 board-certified in pulmonary medicine. Each subject must be tested
 2-46 with and without inhaled bronchodilators, with the best values
 2-47 taken. Predicted values for spirometry and lung volume shall be
 2-48 those published by Morris, *Clinical Pulmonary Function Testing*, 2nd
 2-49 Edition, Intermountain Thoracic Society (1984). Predicted values
 2-50 for diffusing capacity shall be those published by Miller et al.,
 2-51 127 *American Review of Respiratory Disease* 270-277 (1983), and
 2-52 shall take appropriate account of smoking history or exposure to
 2-53 silica.
 2-54 Sec. 90.002. APPLICABILITY. This chapter applies to any
 2-55 claim alleging personal injury or death caused by exposure to
 2-56 asbestos fibers.
 2-57 Sec. 90.003. NO CAUSE OF ACTION CREATED. This chapter does
 2-58 not create a cause of action.
 2-59 [Sections 90.004-90.050 reserved for expansion]
 2-60 SUBCHAPTER B. INACTIVE DOCKET
 2-61 Sec. 90.051. INACTIVE DOCKET ESTABLISHED. (a) The supreme
 2-62 court shall establish an inactive docket for claims under this
 2-63 chapter. The inactive docket shall be administered by the office of
 2-64 court administration.
 2-65 (b) The supreme court by rule shall establish procedures to
 2-66 implement the inactive docket according to this chapter.
 2-67 Sec. 90.052. LIMITATIONS TOLLED. The limitations period
 2-68 for a claim assigned to the inactive docket under this subchapter is
 2-69 tolled as of the original date on which the petition and information

3-1 form against each defendant named in the petition are filed under
 3-2 Section 90.054.

3-3 Sec. 90.053. INACTIVE CLAIMS NOT SUBJECT TO DISCOVERY AND
 3-4 OTHER COURT ORDERS. A claim on the inactive docket is not subject
 3-5 to any order of the trial court in which the claim was originally
 3-6 filed affecting active claims involving exposure to asbestos
 3-7 fibers, including discovery orders. Discovery may not proceed on
 3-8 an inactive claim until the claim is removed to the active docket as
 3-9 provided by this subchapter.

3-10 Sec. 90.054. FILING A CLAIM; FILING FEE. (a) A claimant
 3-11 seeking recovery of damages for personal injury or death caused by
 3-12 exposure to asbestos fibers shall file, in addition to the
 3-13 petition, an information form containing the following
 3-14 information:

3-15 (1) the claimant's name, address, date of birth,
 3-16 social security number, and marital status;

3-17 (2) if the claimant is not the person whose alleged
 3-18 exposure to asbestos fibers gave rise to the claim, the person's
 3-19 name, address, date of birth, social security number, and marital
 3-20 status, the claimant's relationship to the person, and, if the
 3-21 person is deceased, the names of any survivors of the person;

3-22 (3) the beginning and ending dates of the alleged
 3-23 exposure to asbestos products; and

3-24 (4) the specific asbestos-related condition claimed
 3-25 to exist.

3-26 (b) Each claimant shall:

3-27 (1) file a petition and information form required by
 3-28 this section; and

3-29 (2) pay the filing fee required by Section
 3-30 51.317(b)(1), Government Code.

3-31 (c) A claim may not be brought on behalf of a group or class
 3-32 of persons, and multiple claims may not be joined unless each
 3-33 claimant files a petition and information form and pays the
 3-34 applicable filing fee.

3-35 (d) Except as provided by Subsection (e), as soon as
 3-36 possible after the claim is filed, the trial court shall send the
 3-37 appropriate cause number and a copy of the claimant's information
 3-38 form to the office of court administration for listing on the
 3-39 inactive docket.

3-40 (e) The trial court shall place a claim on the active docket
 3-41 if the claimant's petition and information form are accompanied by:

3-42 (1) a statement by a physician board-certified in
 3-43 internal medicine, oncology, pulmonary medicine, or pathology
 3-44 indicating a diagnosis of pleural or peritoneal mesothelioma; or

3-45 (2) a written diagnosis of cancer demonstrated by:
 3-46 (A) a medical report showing the diagnosis as a
 3-47 primary cancer; and

3-48 (B) a signed report:

3-49 (i) certified by a physician
 3-50 board-certified in internal medicine, oncology, pulmonary
 3-51 medicine, or pathology; and

3-52 (ii) stating to a reasonable degree of
 3-53 medical probability that exposure to asbestos fibers was a
 3-54 producing cause of the diagnosed cancer.

3-55 (f) The clerk of the court in which the claim is filed shall
 3-56 forward one-half of the filing fee paid under this section to the
 3-57 comptroller for deposit to the asbestos claims inactive docket
 3-58 account established under Subchapter C.

3-59 Sec. 90.055. MOTION FOR REMOVAL TO ACTIVE DOCKET. (a) A
 3-60 claimant seeking to remove a claim from the inactive docket for
 3-61 placement on the active docket shall file with the trial court in
 3-62 which the claim was originally filed a motion for removal.

3-63 (b) The motion for removal must be accompanied by the
 3-64 documentation necessary to satisfy the criteria specified by
 3-65 Section 90.056.

3-66 (c) At the time of filing with the trial court, the claimant
 3-67 shall serve the motion for removal and supporting documentation on
 3-68 each defendant named in the claimant's original petition.

3-69 (d) Not later than the 14th day after the date of service of

4-1 the motion for removal and supporting documentation, a defendant
 4-2 who objects to the removal of the claim must file an objection to
 4-3 removal with the trial court stating the reasons for the objection.
 4-4 The objection shall be served on the claimant and each other
 4-5 defendant.

4-6 (e) The filing by a defendant of an objection to removal and
 4-7 any documentation supporting the objection, or the defendant's
 4-8 appearance at a hearing ordered by the court in connection with an
 4-9 objection for removal, is not considered an appearance for purposes
 4-10 of establishing the court's jurisdiction over the defendant in the
 4-11 event the claim is removed to the active docket.

4-12 (f) Not later than the 10th day after the date of service of
 4-13 the objection to removal, the claimant may file a response with the
 4-14 trial court. The response must be served on each defendant.

4-15 (g) A motion for removal may be filed simultaneously with
 4-16 the original petition and information form under Section 90.054.

4-17 Sec. 90.056. CRITERIA FOR REMOVAL FOR NONMALIGNANCY.

4-18 (a) A judge reviewing a motion for removal may remove a claim from
 4-19 the inactive docket and place it on the active docket of the trial
 4-20 court in which it was originally filed if the claimant shows by a
 4-21 preponderance of the evidence a diagnosis of impaired asbestosis or
 4-22 other specific, nonmalignant asbestos-related condition
 4-23 accompanied by a verifiable physical impairment substantially
 4-24 caused by the asbestos-related condition.

4-25 (b) An impairment diagnosis under Subsection (a) must:

4-26 (1) be demonstrated by a medical report certified by a
 4-27 physician licensed in this state and board-certified in internal,
 4-28 occupational, or pulmonary medicine;

4-29 (2) be based on objective criteria of generally
 4-30 accepted medical standards related to impairment due to a reliable
 4-31 history of exposure to asbestos fibers; and

4-32 (3) include a physical examination of the claimant by
 4-33 the physician rendering the diagnosis that sets forth:

4-34 (A) a detailed medical history that includes a
 4-35 thorough review of the claimant's past and present medical status
 4-36 and nonoccupational causes of lung and pleural changes and that
 4-37 documents the claimant's smoking history; and

4-38 (B) a reliable history of exposure:

4-39 (i) that includes a detailed occupational
 4-40 and exposure history taken from the claimant by the physician
 4-41 rendering the diagnosis, or, if the claimant is deceased, by the
 4-42 person most knowledgeable about those histories, including all
 4-43 known trades and all principal places of employment for the
 4-44 claimant involving airborne contaminants; and

4-45 (ii) that indicates whether each employment
 4-46 involved exposures to airborne contaminants, including asbestos
 4-47 fibers and other disease-causing dusts, that can cause pulmonary
 4-48 impairment, and indicates the nature, duration, and level of any
 4-49 such exposure.

4-50 (c) For purposes of this section, meeting the objective
 4-51 criteria for generally accepted medical standards of impairment
 4-52 related to a reliable history of exposure to asbestos fibers
 4-53 requires at a minimum:

4-54 (1)(A) a quality 1 chest x-ray that, in the opinion of
 4-55 a certified B-reader, shows bilateral small irregular opacities (s,
 4-56 t, or u) graded 1/0 or higher or bilateral diffuse pleural
 4-57 thickening graded b2 or higher including blunting of the
 4-58 costophrenic angle; or

4-59 (B) pathological asbestosis graded 1(B) or
 4-60 higher under the criteria published in "Asbestos-Associated
 4-61 Diseases," 106 *Archive of Pathology and Laboratory Medicine* 11,
 4-62 Appendix 3 (October 8, 1982); and

4-63 (2) pulmonary function testing that demonstrates
 4-64 either:

4-65 (A) forced vital capacity (FVC) below the lower
 4-66 limit of normal and FEV1/FVC ratio (using actual values) at or above
 4-67 the lower limit of normal; or

4-68 (B) total lung capacity, by plethysmography or
 4-69 timed gas dilution, below the lower limit of normal.

5-1 (d) If the pulmonary function testing results do not meet
 5-2 the requirements of Subsection (c)(2), a claimant may submit an
 5-3 additional report, by a physician licensed in this state and
 5-4 board-certified in pulmonary, internal, or occupational medicine,
 5-5 that states that:

5-6 (1) the physician has a physician-patient
 5-7 relationship with the claimant;

5-8 (2) the claimant has a quality 1 chest x-ray that has
 5-9 been read by a certified B-reader according to the ILO system of
 5-10 classification as showing bilateral small irregular opacities (s,
 5-11 t, or u) graded 2/1 or higher;

5-12 (3) the claimant has restrictive impairment from
 5-13 asbestosis and sets forth in detail the specific pulmonary function
 5-14 test findings that the physician is relying upon to establish that
 5-15 the claimant has restrictive impairment;

5-16 (4) the physician shall submit the reports and
 5-17 readouts from all pulmonary function, lung volume, diffusing
 5-18 capacity, or other testing relied upon for the report's
 5-19 conclusions, provided that such tests comply with equipment,
 5-20 quality, and reporting standards established by this chapter; and

5-21 (5) the physician's conclusion that the claimant's
 5-22 medical findings and impairment were not more probably the result
 5-23 of other causes revealed by the claimant's employment and medical
 5-24 history.

5-25 (e) If a claimant is deceased and no pathology is available,
 5-26 the radiologic findings required by this section may be made with a
 5-27 quality 2 chest x-ray if a quality 1 chest x-ray is not available.

5-28 Sec. 90.057. REVIEW BY INDEPENDENT EXPERT. (a) If a
 5-29 defendant objects to the motion for removal, the trial court, not
 5-30 later than the 45th day after the date the motion for removal is
 5-31 filed, shall refer the medical report, test results, and other
 5-32 documentation submitted by the claimant, the defendant's objection
 5-33 to removal, and any other information directed by the court to an
 5-34 independent expert randomly selected from a list of experts
 5-35 published by the supreme court according to Section 90.058.

5-36 (b) The costs of the expert shall be paid:

5-37 (1) by the objecting defendant if the expert
 5-38 determines the medical criteria for removal have been met; or

5-39 (2) by the claimant if the expert determines the
 5-40 medical criteria for removal have not been met.

5-41 (c) The independent experts shall submit a report and
 5-42 recommendation to the court not later than the 10th day after the
 5-43 date the expert receives the information from the court. The
 5-44 independent expert may perform pulmonary function testing to verify
 5-45 the information submitted by the claimant.

5-46 Sec. 90.058. LIST OF INDEPENDENT EXPERTS. (a) The supreme
 5-47 court shall publish a list of independent experts for the purpose of
 5-48 reviewing motions for removal filed under this subchapter.

5-49 (b) To be eligible for placement on the list of independent
 5-50 experts, a person must:

5-51 (1) be a physician licensed in this state;

5-52 (2) be board-certified in internal medicine,
 5-53 occupational medicine, or pulmonary medicine; and

5-54 (3) be actively and primarily practicing medicine in a
 5-55 field directly related to the physician's board certification.

5-56 (c) The supreme court shall distribute the list of
 5-57 independent experts to each district court in the state. The
 5-58 supreme court shall update the list at least annually.

5-59 (d) The supreme court by rule shall adopt a system for the
 5-60 random selection of independent experts from the list.

5-61 Sec. 90.059. ORDER GRANTING OR DENYING MOTION FOR REMOVAL.
 5-62 (a) Not later than the seventh day after the date the expert's
 5-63 report and recommendation are received, the trial court shall issue
 5-64 an order granting or denying the motion for removal based on the
 5-65 opinion of the independent expert and the submissions of the
 5-66 parties.

5-67 (b) Before issuing the order, the court may hold a hearing
 5-68 on its own motion or, in its discretion, on the motion of a party.
 5-69 The decision of the court not to grant a request for a hearing may

6-1 not be appealed and does not constitute reversible error.

6-2 (c) If the court orders a claim removed from the inactive
6-3 docket and placed on the active docket, any date, deadline, or other
6-4 provision in a court order relating to claims on the active docket
6-5 or in the Texas Rules of Civil Procedure applies as if the claim had
6-6 been filed on the date of the court's order granting the motion for
6-7 removal.

6-8 (d) If the trial court orders a claim removed from the
6-9 inactive docket and placed on the court's active docket, the court
6-10 shall notify the office of court administration. Upon receipt of
6-11 such notification, the office of court administration shall remove
6-12 the claim from its list of inactive claims.

6-13 Sec. 90.060. ADMISSIBILITY OF CERTAIN INFORMATION.

6-14 (a) The existence of an inactive docket, or the fact that a claim
6-15 is or is not on an inactive docket, is not admissible in any
6-16 proceeding for any purpose, except for a proceeding concerned with
6-17 the removal of a claim from the inactive docket.

6-18 (b) The medical criteria established by this subchapter for
6-19 removal of a claim from the inactive docket are established solely
6-20 for the purpose of determining whether a claim may be removed to the
6-21 active docket. The fact that a claimant satisfies the medical
6-22 criteria for removal of a claim from the inactive docket may not be
6-23 construed as an admission or determination that a person has a
6-24 condition related to exposure to asbestos fibers. The criteria
6-25 used to determine whether a claim should be removed may not be
6-26 cited, referred to, or otherwise used in the trial of a claim for
6-27 the purpose of determining whether a person has a condition related
6-28 to exposure to asbestos fibers.

6-29 (c) An expert report submitted under Section 90.057 is
6-30 solely for the purpose of determining whether a claim may be removed
6-31 to the active docket and is inadmissible for any other purpose. An
6-32 independent expert may not be compelled to testify at any hearing or
6-33 trial for which the expert submitted a report under Section 90.057.

6-34 (d) Listing of a claim on an inactive docket may not be
6-35 construed as an admission by a claimant or person allegedly exposed
6-36 to asbestos fibers that the claimant or person has not developed a
6-37 condition related to exposure to asbestos fibers.

6-38 [Sections 90.061-90.100 reserved for expansion]

6-39 SUBCHAPTER C. FINANCIAL PROVISIONS

6-40 Sec. 90.101. ASBESTOS CLAIMS INACTIVE DOCKET ACCOUNT.

6-41 (a) The asbestos claims inactive docket account is an account in
6-42 the general revenue fund.

6-43 (b) The account consists of money deposited to the account
6-44 under Section 90.054, grants, gifts, and donations to the account,
6-45 and interest earned on money in the account.

6-46 (c) The account may be appropriated only for purposes of
6-47 administering this chapter.

6-48 (d) Sections 403.095 and 404.071, Government Code, do not
6-49 apply to the account.

6-50 Sec. 90.102. DONATIONS. The office of court administration
6-51 may accept for the account established under Section 90.101 a
6-52 donation, grant, or gift of any kind from any person for a purpose
6-53 related to the administration of this chapter.

6-54 SECTION 2. Subsection (a), Section 23.101, Government Code,
6-55 is amended to read as follows:

6-56 (a) The trial courts of this state shall regularly and
6-57 frequently set hearings and trials of pending matters, giving
6-58 preference to hearings and trials of the following:

6-59 (1) temporary injunctions;
6-60 (2) criminal actions, with the following actions given
6-61 preference over other criminal actions:

6-62 (A) criminal actions against defendants who are
6-63 detained in jail pending trial;

6-64 (B) criminal actions involving a charge that a
6-65 person committed an act of family violence, as defined by Section
6-66 71.01, Family Code; and

6-67 (C) an offense under:
6-68 (i) Section 21.11, Penal Code;
6-69 (ii) Chapter 22, Penal Code, if the victim

7-1 of the alleged offense is younger than 17 years of age;

7-2 (iii) Section 25.02, Penal Code, if the
7-3 victim of the alleged offense is younger than 17 years of age; or

7-4 (iv) Section 25.06, Penal Code;
7-5 (3) election contests and suits under the Election
7-6 Code;

7-7 (4) orders for the protection of the family under
7-8 Section 3.581, 71.11, or 71.12, Family Code;

7-9 (5) appeals of final rulings and decisions of the
7-10 Texas Workers' Compensation Commission and claims under the Federal
7-11 Employers' Liability Act and the Jones Act; ~~and~~

7-12 (6) appeals of final orders of the commissioner of the
7-13 General Land Office under Section 51.3021, Natural Resources Code;
7-14 and

7-15 (7) a claim alleging personal injury caused by
7-16 exposure to asbestos fibers if the basis for the claim is a
7-17 diagnosis of mesothelioma or other malignancy allegedly caused by
7-18 exposure to asbestos fibers and the exposed person is still living.

7-19 SECTION 3. (a) Except as otherwise provided by this
7-20 section, Chapter 90, Civil Practice and Remedies Code, as added by
7-21 this Act, applies to all actions:

7-22 (1) commenced on or after the effective date of this
7-23 Act; or

7-24 (2) pending on that effective date and in which the
7-25 trial, or any new trial or retrial following motion, appeal, or
7-26 otherwise, begins on or after that effective date.

7-27 (b) Sections 90.057 and 90.058, as added by this Act, apply
7-28 only to an action commenced on or after April 1, 2003. If a
7-29 defendant objects to a motion for removal in an action commenced
7-30 before that date, the trial court shall issue an order granting or
7-31 denying the motion based on the evidence presented by the parties.

7-32 (c) An action commenced before the effective date of this
7-33 Act, in which a trial, new trial, or retrial is in progress on the
7-34 day prior to the effective date, is governed by the applicable law
7-35 in effect immediately before that date, and that law is continued in
7-36 effect for that purpose.

7-37 (d) The Supreme Court of Texas shall establish the inactive
7-38 docket, as required by this Act, not later than the 60th day after
7-39 the effective date of this Act.

7-40 (e) The Supreme Court of Texas shall publish the list of
7-41 independent experts and adopt a system for the random selection of
7-42 independent experts, as required by this Act, not later than the
7-43 60th day after the effective date of this Act.

7-44 SECTION 4. (a) In an action to which Subdivision (2),
7-45 Subsection (a), Section 3 of this Act, applies, a claimant shall
7-46 file a notice of claim with the trial court in which the claim was
7-47 originally filed for purposes of placing the claim on the inactive
7-48 docket established under Subchapter B, Chapter 90, Civil Practice
7-49 and Remedies Code, as added by this Act, unless the claim qualifies
7-50 for the active docket as provided by Subsection (e), Section
7-51 90.054, Civil Practice and Remedies Code, as added by this Act.

7-52 (b) The notice of claim required under Subsection (a) of
7-53 this section shall identify the claimant, each defendant named in
7-54 the original petition, and the cause number of the original claim.
7-55 The clerk of the court shall send a copy of the notice of claim to
7-56 the Office of Court Administration of the Texas Judicial System and
7-57 the claim shall be treated in all respects as any other claim placed
7-58 on the inactive docket established under Subchapter B, Chapter 90,
7-59 Civil Practice and Remedies Code, as added by this Act.

7-60 (c) If a claimant to which this section applies did not pay
7-61 the applicable filing fee when the claim was originally filed, the
7-62 claimant shall pay the filing fee required by Subdivision (1),
7-63 Subsection (b), Section 51.317, Government Code, with the notice of
7-64 claim required under Subsection (a) of this section. The clerk of
7-65 the court shall forward one-half of the fee to the comptroller of
7-66 public accounts in accordance with Subsection (f), Section 90.054,
7-67 Civil Practice and Remedies Code, as added by this Act.

7-68 SECTION 5. This Act takes effect immediately if it receives
7-69 a vote of two-thirds of all the members elected to each house, as

8-1 provided by Section 39, Article III, Texas Constitution. If this
8-2 Act does not receive the vote necessary for immediate effect, this
8-3 Act takes effect September 1, 2003.

8-4

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