

By: Rose

H.B. No. 1294

Substitute the following for H.B. No. 1294:

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C.S.H.B. No. 1294

A BILL TO BE ENTITLED

AN ACT

relating to permissive interlocutory appeals in civil actions.

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

SECTION 1. Section 51.014, Civil Practice and Remedies Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (d-1) and (g) to read as follows:

(d) In a civil action in which the amount in controversy exceeds \$100,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, a trial [A district] court may, by [issue a] written order, permit an appeal from an [for] interlocutory order that is [appeal in a civil action] not otherwise appealable [under this section] if:

(1) ~~[the parties agree that]~~ the interlocutory order 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 interlocutory order may materially advance the ultimate termination of the litigation[+ and

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

(d-1) In a civil action in which the amount in controversy does not exceed \$100,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, a trial court may permit an appeal under Subsection (d) if the criteria in Subdivisions (1)-(2) of that subsection are met and the parties

1 agree to an interlocutory appeal in accordance with this section.

2 (e) The order permitting an [An] appeal under Subsection (d)  
3 or (d-1) must be included in the interlocutory order being  
4 appealed. If the interlocutory order addresses more than one  
5 question of law, the order must state which questions are subject to  
6 appeal.

7 (f) An appeal under Subsection (d) or (d-1) does not stay  
8 proceedings in the trial [district] court unless the parties agree  
9 to a stay or [and] the trial or appellate [district] court[, the  
10 court of appeals, or a judge of the court of appeals] orders a stay  
11 [of the proceedings].

12 (g) An appellate court may, in its discretion, accept an  
13 appeal permitted by Subsection (d) or (d-1) if the appealing party  
14 files in [(f) ~~If application is made to~~] the court of appeals  
15 having [that has] appellate jurisdiction over the action a motion  
16 for leave to appeal [not later than the 10th day after the date an  
17 interlocutory order under Subsection (d) is entered, the appellate  
18 court may permit an appeal to be taken from that order]. The motion  
19 must be filed in the court of appeals not later than the 20th day  
20 after the date the trial court signs the order permitting the  
21 appeal. If the court of appeals grants leave to appeal, the  
22 appealing party must pursue the appeal in accordance with the  
23 procedures set forth in the Texas Rules of Appellate Procedure for  
24 an accelerated appeal. The date the court of appeals enters the  
25 order accepting the appeal starts the time for filing the notice of  
26 appeal.

27 SECTION 2. The change in law made by this Act does not apply

1 to an interlocutory order issued under Section 51.014, Civil  
2 Practice and Remedies Code, before the effective date of this Act.  
3 An interlocutory order issued under that section before the  
4 effective date of this Act is governed by the law in effect  
5 immediately before that date, and that law is continued in effect  
6 for that purpose.

7 SECTION 3. This Act takes effect September 1, 2005.