

By: Rose

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. Sections 51.014(d), (e), and (f), Civil Practice and Remedies Code, are amended to read as follows:

(d) On a party's motion or on a trial court's own initiative, the trial [A district] court in a civil action 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 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].~~

(e) An appeal under Subsection (d) does not stay proceedings in the trial [district] court unless the parties agree to a stay or [and] the trial or appellate [district] 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 10th day after the date the trial court signs the order permitting the

1 appeal, files in [~~If application is made to~~] the court of appeals
2 having [~~that has~~] appellate jurisdiction over the action an
3 application for permission to appeal explaining why an appeal is
4 warranted under Subsection (d) [~~not later than the 10th day after~~
5 ~~the date an interlocutory order under Subsection (d) is entered,~~
6 ~~the appellate court may permit an appeal to be taken from that~~
7 ~~order~~]. If the court of appeals accepts the appeal, the appealing
8 party must pursue the appeal in accordance with the procedures set
9 forth in the Texas Rules of Appellate Procedure for an accelerated
10 appeal. The date the court of appeals enters the order accepting
11 the appeal starts the time for filing the notice of appeal.

12 SECTION 2. The change in law made by this Act applies only
13 to a civil action pending or commenced on or after the effective
14 date of this Act.

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

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