

By: Hartnett

H.B. No. 1385

A BILL TO BE ENTITLED

AN ACT

relating to a governmental unit's liability for attorney's fees and costs in a declaratory judgment proceeding.

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

SECTION 1. Section 37.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 37.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Governmental unit" has the meaning assigned by Section 101.001.

(2) "Person" [~~,"person"~~] means an individual, partnership, joint-stock company, unincorporated association or society, or municipal or other corporation of any character.

SECTION 2. Chapter 37, Civil Practice and Remedies Code, is amended by adding Section 37.0021 to read as follows:

Sec. 37.0021. SOVEREIGN IMMUNITY NOT WAIVED. A governmental unit does not waive immunity from suit or from liability for attorney's fees and costs in a proceeding under this chapter.

SECTION 3. Section 37.009, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 37.009. COSTS AND ATTORNEY'S FEES. (a) Except as provided by Subsection (b), in [~~In~~] any proceeding under this chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just.

1 (b) A court may not award costs and attorney's fees against
2 a governmental unit in any proceeding under this chapter.

3 SECTION 4. The change in law created by this Act applies
4 only to an action filed on or after the effective date of this Act.
5 An action filed before the effective date of this Act is governed by
6 the law applicable to the action immediately before the effective
7 date of this Act, and that law is continued in effect for that
8 purpose.

9 SECTION 5. This Act takes effect September 1, 2005.